

## *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 10**                      **Resolve, To Fund a Study Regarding Health Care for Maine's Firefighters**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 10 proposed to appropriate \$75,000 to the Maine Fire Protection Services Commission to contract for services to conduct a study regarding the provision of health care benefits to firefighters in this State.

LD 10 was carried over by H.P. 1203 to the next regular or special session of the 122nd Legislature. The Maine Fire Protection Services Commission, with the help of the Department of Administrative and Financial Services, Bureau of Health Insurance, will work on the bill during the interim.

**LD 17**                      **An Act To Ensure Fair Reimbursement for the Medical Care Provided to State Inmates**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RECTOR	OTP-AM      MAJ	
SNOWE-MELLO	ONTP        MIN	

LD 17 proposed to repeal the language that established MaineCare rates as the reimbursement rate for medical services provided to state inmates outside of correctional or detention facilities. By repealing this section, the bill proposed to require the State or its contracted medical provider to negotiate fair reimbursement rates for medical care provided to state inmates.

**Committee Amendment "A" (H-118)** proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to limit the damages that may be awarded against a medical service provider on a tort claim arising out of the provision of medical services to a person being held in a state, county or municipal correctional or detention facility and applies to services provided inside the facility and outside the facility. This amendment would have been analogous to the provisions limiting damages awards against governmental employees and entities found in the Maine Tort Claims Act, including a provision that makes its limits applicable to wrongful death actions. The amendment also proposed to provide that the Maine Health Security Act's provisions, including those governing the mandatory prelitigation screening process, continue to apply.

The amendment also proposed to require that a payment for a medical service provided to a person residing in a Department of Corrections facility that is provided outside the facility and for which the department or its contracted medical provider is liable must be made within 30 days of receipt of proof of the service rendered. This amendment was not adopted.

**House Amendment "A" to Committee Amendment "A" (H-127)** proposed to provide that the Department of Corrections or the department's contracted medical service provider shall pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no less than 150% of the reimbursement rate applicable to that provider and that service as established for the Medicare program. The amendment also proposed to add an appropriations and allocations section. This amendment was not adopted.

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**House Amendment "B" to Committee Amendment "A" (H-247)** proposed to provide that the Department of Corrections or the department's contracted medical service provider shall pay to a provider of a medical service for a person residing in a correctional or detention facility an amount no less than 125% of the reimbursement rate applicable to that provider and that service as established for the Medicare program. The amendment proposed to add an appropriations and allocations section. This amendment was not adopted.

LD 17 was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

<b>LD 29</b>	<b>An Act To Provide Justice to Those Found Not Guilty Due to Mental Disease or Defect and Decrease Costs to the State</b>	<b>ONTP</b>
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<u>Sponsor(s)</u> FAIRCLOTH	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 29 proposed to specify that proper use of prescribed medications may be a condition of release for a person found not criminally responsible by reason of mental disease or mental defect. LD 29 proposed to lessen the burden of proof for a petitioner seeking the release or discharge of a person hospitalized after having been found not criminally responsible by reason of mental disease or mental defect for committing a Class B, C, D or E crime. For discharge or release, the bill proposed that a petitioner must demonstrate by a preponderance of the evidence that the modified release treatment program, release on conditions or discharge may be granted without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The petitioner's burden of proof in a case for release or discharge where a person was found not criminally responsible by reason of mental disease or defect for murder or a Class A crime would remain proof by clear and convincing evidence. (Taylor v. Commissioner of Mental Health and Mental Retardation, 481 A.2d 139 (1984)) LD 29 also proposed to make technical changes to the statutes, including making terminology consistent.

<b>LD 53</b>	<b>An Act To Clarify the Law Regarding Unlawful Interference with Law Enforcement Dogs</b>	<b>PUBLIC 69</b>
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<u>Sponsor(s)</u> FISCHER DIAMOND	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-119
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LD 53 proposed to amend the law regarding interference with law enforcement dogs by applying the crime to any person who harms a dog that the person knows or reasonably should have known is used for law enforcement purposes.

**Committee Amendment "A" (H-119)** proposed to replace the bill and to make 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B, subsection 1, paragraphs A and B. First, it proposed to add to each an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, it proposed to eliminate from each the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.

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### ***Enacted law summary***

Public Law 2005, chapter 69 makes 2 parallel changes to the Maine Revised Statutes, Title 17-A, section 752-B regarding interference with law enforcement dogs. First, it adds to each of the 2 offenses an element currently there by implication, which is that the dog intentionally or knowingly mistreated is in fact certified for law enforcement use. Second, Public Law 2005, chapter 69 eliminates from each of the 2 offenses the current element that the actor knows or should know of the dog's certification and replaces it with a requirement that the actor knows or should know that the dog is used for law enforcement purposes.

**LD 83**

**An Act to Prohibit Payment Card Skimming**

**PUBLIC 72**

Sponsor(s)  
SNOWE-MELLO  
FLETCHER

Committee Report  
OTP-AM

Amendments Adopted  
S-67

LD 83 proposed to create the Class C crime of unlawful use of a scanning device or reencoder. LD 83 proposed that a person is guilty of this crime if, without the card user's permission, the person intentionally or knowingly uses a scanning device or a reencoder to capture encoded information from a magnetic strip or stripe on a credit card, debit card or other payment card with the intent to defraud the card user, issuer or merchant. The bill further proposed that a person who has 2 or more convictions for this offense commits a Class B crime.

**Committee Amendment "A" (S-67)** proposed to replace the bill and to create the Class D crime of misuse of a scanning device or a reencoder. The amendment proposed that a person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of an authorized payment card user to capture encoded information from the user's payment card with the intent to defraud that authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

### ***Enacted law summary***

Public Law 2005, chapter 72 creates the Class D crime of misuse of a scanning device or a reencoder. A person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of an authorized payment card user to capture encoded information from the user's payment card with the intent to defraud that authorized payment card user, the issuer of the authorized payment card user's payment card or another person.

**LD 102**

**An Act To Allow the Part-time Assignment of State Police Officers to Municipalities**

**PUBLIC 53**

Sponsor(s)  
BLANCHETTE

Committee Report  
OTP-AM

Amendments Adopted  
H-97

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LD 102 proposed to clarify current law by making it clear that the Chief of the State Police may provide police services to requesting municipalities on a full-time or part-time basis by assigning one or more officers. The municipality would have to pay the cost of providing the assigned officer or officers.

**Committee Amendment "A" (H-97)** proposed to amend one of 2 provisions of law relating to a municipality's authority to contract for law enforcement services. This amendment proposed to make certain clarifying changes to the other provision to avoid ambiguity, ensure consistency and provide a cross-reference. The amended provision related to municipal authority to contract for law enforcement services with either the State Police or a sheriff's department. For clarity, the amendment proposed to move the provision to its own section of law. It also proposed to make explicit that a municipality may contract with the State Police or a sheriff's department for law enforcement services, including, but not limited to, enforcement of local ordinances. Finally, the amendment proposed to provide a cross-reference to the Maine Revised Statutes, Title 25, section 1502, which governs municipal authority to contract with the State Police.

### *Enacted law summary*

Public Law 2005, chapter 53 clarifies current law by making it clear that the Chief of the State Police may provide police services to requesting municipalities on a full-time or part-time basis by assigning one or more officers. The municipality must pay the cost of providing the assigned officer or officers. Public Law 2005, chapter 53 also makes explicit that a municipality may contract with the State Police or a sheriff's department for law enforcement services, including, but not limited to, enforcement of local ordinances.

**LD 104**

**An Act To Require Cigarettes Sold in Maine To Be Fire-safe**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
RINES COWGER	ONTP	

LD 104 proposed to provide that, beginning January 1, 2006, only cigarettes that meet the standards of fire-safe cigarettes as established by the State Fire Marshal may be offered for sale in this State. The bill proposed to create the following civil violations and minimum fines.

1. A wholesaler who knowingly sold cigarettes that were not fire-safe would be subject to a \$10,000 fine for each sale.
2. A manufacturer who knowingly misrepresented that cigarettes were fire-safe would be subject to a \$10,000 fine for each misrepresentation.
3. A retailer who sold 5 or fewer cartons of cigarettes that were not fire-safe would be subject to a \$500 fine.
4. A retailer who sold more than 5 cartons of cigarettes that were not fire-safe would be subject to a \$1,000 fine.

The bill also proposed to direct the State Fire Marshal to adopt standards for fire-safe cigarettes that ensure that cigarettes will stop burning within a specific time period or that cigarettes meet performance standards to limit the risk that they will ignite upholstered furniture. The bill proposed that the Fire Marshal consider health risks in adopting the safety standards. The bill also proposed to dedicate fines to fire safety and prevention programs and authorize the Fire Marshal to adopt routine technical rules to ensure that the standards are in place by January 1, 2006.

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**LD 106**                      **An Act To Provide Equity in the State Contribution to County Jail Expenses**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FLETCHER	ONTP      MAJ	
COURTNEY	OTP-AM      MIN	

LD 106 proposed to provide that persons sentenced to more than 6 months incarceration must be committed to the Department of Corrections and those sentenced to less than 6 months must be committed to county jail. If a sentence includes incarceration, current law provides that a person convicted of a Class D or E crime must be committed to a county jail and for a Class A, B or C crime the court must specify a county jail if the person is sentenced to less than 9 months or must commit the person to DOC if the sentence is for more than 9 months. The bill also proposed to require that if the court imposes consecutive terms of imprisonment and the aggregate length of the terms is 6 months or more, they must be served in a DOC facility.

LD 106 also proposed to require that the Legislature appropriate amounts to supplement distributions from the County Jail Prisoner Support and Community Corrections Fund so that the combined funding would reimburse the county for the average total cost of the support of prisoners committed by court to that county's correctional facilities and the full cost of the support of prisoners committed to the Department of Corrections but who, as a result of violation of probation or parole, are housed in the county jail.

**Committee Amendment "A" (H-223)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to add an appropriations and allocations section to the bill. This amendment was not adopted.

**LD 194**                      **An Act To Restrict Personal Benefit by Public Employees**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW	ONTP	

LD 194 proposed to designate as a Class E crime the use of public office information for personal benefit by a public servant.

**LD 212**                      **An Act To Amend the Laws Governing Patronizing Prostitution of a Minor**                      **PUBLIC 444**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SMITH N	OTP-AM	H-321

Current law provides that a person promotes prostitution if, among other things, the person causes or aids another to commit or engage in prostitution, other than as a patron. This bill proposed to remove from the definition of

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“promotes prostitution” the phrase “other than as a patron.” This change would treat the conduct of engaging a prostitute the same as promoting prostitution.

**COMMITTEE AMENDMENT "A" (H-321)** proposed to replace the bill and create a new Class C crime of patronizing prostitution of a minor. The amendment proposed that a person commits the Class C crime of patronizing prostitution of a minor if that person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person, the person whose prostitution is sought has not yet attained 18 years of age and the person knows that the person whose prostitution is sought has not attained 18 years of age.

### *Enacted law summary*

Public Law 2005, chapter 444 creates a new Class C crime of patronizing prostitution of a minor. A person commits the Class C crime of patronizing prostitution of a minor if that person, in return for another's prostitution:

1. Gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person;
2. The person whose prostitution is sought has not yet attained 18 years of age; and
3. The person knows that the person whose prostitution is sought has not attained 18 years of age.

**LD 218**

**An Act To Make Sexual Exploitation of Minors a Crime  
Compensable by the Victims' Compensation Board**

**PUBLIC 22**

<u>Sponsor(s)</u> DIAMOND	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> S-21
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LD 218 proposed to make sexual exploitation of minors a crime compensable by the Victims' Compensation Board.

**Committee Amendment "A" (S-21)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Public Law 2005, chapter 22 makes sexual exploitation of minors a crime compensable by the Victims' Compensation Board.

**LD 232**

**An Act To Enhance Highway Safety**

**PUBLIC 441**

<u>Sponsor(s)</u> TRAHAN DOW	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-578
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Under current law a person who operates a vehicle in a grossly negligent manner and causes the death of another person commits the Class A crime of manslaughter. If the person drives the vehicle with exactly the same kind of gross negligence but does not cause a death, the only crime available for prosecution is driving to endanger, a Class E crime, even if a person suffers significant and permanent injury. LD 232 proposed to increase the sentencing level to Class C and to impose a license suspension period of not less than 180 days and not more than 2 years if the State both pleads and proves that the criminally negligent driving caused serious bodily injury.

**Committee Amendment "A" (H-578)** proposed to incorporate a fiscal note.

### ***Enacted law summary***

Under current law a person who operates a vehicle in a grossly negligent manner and causes the death of another person commits the Class A crime of manslaughter. If the person drives the vehicle with exactly the same kind of gross negligence but does not cause a death, the only crime available for prosecution is driving to endanger, a Class E crime, even if a person suffers significant and permanent injury. Public Law 2005, chapter 441 increases the sentencing level to Class C and imposes a motor vehicle license suspension period of not less than 180 days and not more than 2 years if the State both pleads and proves that the criminally negligent driving caused serious bodily injury.

**LD 242**

**An Act To Amend the Maine Juvenile Code**

**PUBLIC 87**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM MAJ ONTP MIN	H-114 H-125 FAIRCLOTH

LD 242 proposed to amend the Juvenile Code in the following 3 ways:

1. Create a new juvenile offense of violation of conditional release;
2. Amend the period of the statute of limitations for the crimes of gross sexual assault and unlawful sexual contact committed by juveniles. Current law limits prosecution to a period of 6 years for juvenile crimes that would be Class A, B or C crimes and 3 years for juvenile crimes that would be Class C or D crimes if committed by an adult. However, prosecution of offenses involving gross sexual assault or unlawful sexual contact if the actor is an adult and the victim is under 16 years of age may be commenced at any time. This bill proposed to allow prosecution of serious sexual offenses if committed by a juvenile at any time; and
3. Amend the standard of proof so that juvenile crimes involving illegal drugs or drug paraphernalia and those involving intoxicating liquor that, if committed by an adult, would constitute civil offenses, are established by a preponderance of evidence rather than proof beyond a reasonable doubt.

**Committee Amendment "A" (H-114)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to do the following:

1. Add the former crime of unlawful sexual contact under the Maine Revised Statutes, Title 17-A, section 255 to the list of sex offenses for which the statute of limitations is being repealed. Title 17-A, section 255 was repealed and Title 17-A, section 255-A enacted in its place pursuant to Public Law 2001, chapter 383;

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2. Add to the list of juvenile crimes for which prosecution must be commenced within one year after being committed the willful refusal to obey a court order resulting from a conviction of a crime for a violation of a provision of Title 12 or Title 29-A that is not specifically included in the list of juvenile crimes in Title 15, section 3103, subsection 1, paragraph E or F;
3. Return the juvenile crime in Title 15, section 3103, subsection 1, paragraph D to the list of crimes requiring proof beyond a reasonable doubt. This crime was inadvertently added to the list of crimes requiring proof by a preponderance of the evidence; and
4. Add an application section to specify that the repeal of the statute of limitations applies to juvenile crimes of unlawful sexual contact and gross sexual assault committed on or after the effective date of the Act and to juvenile crimes of unlawful sexual contact and gross sexual assault not already barred by the previous statute of limitations.

**House Amendment "A" to Committee Amendment "A" (H-125)** proposed to remove language that eliminated the statute of limitations for the juvenile crimes of unlawful sexual contact and gross sexual assault in cases in which the victim had not attained 16 years of age at the time of the crime and the juvenile had attained 16 years of age. The amendment proposed to provide instead that the statute of limitations does not apply to such crimes if the attorney for the State first presents evidence based on DNA to the court in a closed hearing that implicates the defendant in the crime by a preponderance of the evidence.

### *Enacted law summary*

Public Law 2005, chapter 87 provides that the statute of limitations does not apply for the juvenile crimes of unlawful sexual contact and gross sexual assault in cases where the victim had not attained 18 years of age at the time of the crime and the juvenile offender had attained 16 years of age, if the attorney for the State first presents evidence based on DNA to the court in a closed hearing that implicates the defendant in the crime by a preponderance of the evidence.

Public Law 2005, chapter 87 adds to the list of juvenile crimes for which prosecution must be commenced within one year after being committed the willful refusal to obey a court order resulting from a conviction of a crime for a violation of a provision of Title 12 or Title 29-A that is not specifically included in the list of juvenile crimes in Title 15, section 3103, subsection 1, paragraph E or F.

Public Law 2005, chapter 87 also amends the standard of proof so that juvenile crimes involving illegal drugs or drug paraphernalia and those involving intoxicating liquor that, if committed by an adult, would constitute civil offenses, are established by a preponderance of evidence rather than proof beyond a reasonable doubt.

**LD 251**

**An Act To Amend the Laws Governing Custodian Release  
Conditions**

**ONTP**

Sponsor(s)  
SHERMAN

Committee Report  
ONTP

Amendments Adopted

LD 251 proposed to clarify the laws governing custodian release conditions to specify that the condition of preconviction bail requiring supervision of the defendant does not mean that the defendant must be in the presence of the supervisor 24 hours a day, seven days a week.



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**LD 280**                      **An Act To Amend the Penalties Involving High-speed Vehicle Pursuits**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MAKAS DIAMOND	ONTP	

LD 280 proposed to create a mandatory minimum sentence of one year of imprisonment for eluding a police officer and a mandatory minimum sentence of 2 years of imprisonment if serious bodily injury results to another person.

**LD 282**                      **An Act To Prohibit a Registered Sex Offender from Residing within 1,000 Feet of the Residence of Any Child, a School, Day Care Center or Playground**                      **DIED BETWEEN HOUSES**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE COURTNEY	ONTP      MAJ OTP-AM      MIN	

LD 282 proposed to prohibit a registrant under the Sex Offender Registration and Notification Act of 1999 from residing within 1,000 feet of the residence of any child, a school, licensed day care center or playground.

**Committee Amendment "A" (H-471)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to prohibit a registrant under the Sex Offender Registration and Notification Act of 1999 who committed a sex offense or sexually violent offense against a child less than 12 years of age from residing or establishing a domicile within 500 feet of a public or private elementary school. This amendment was not adopted.

**LD 285**                      **An Act To Prohibit Convicted Sex Offenders from Establishing Residency in Certain Municipalities**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN PLOWMAN	ONTP	

LD 285 proposed to prohibit a person who is convicted and sentenced as a 10-year registrant or as a lifetime registrant under the Sex Offender Registration and Notification Act of 1999 from establishing or maintaining a residence or a domicile in a municipality that does not have its own police department or other law enforcement agency that is capable of responding to any call within 5 minutes.

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**LD 310**

### **An Act To Require a 10-day Waiting Period for the Purchase of Firearms by a Person under 22 Years of Age**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
CRAVEN	OTP-AM MAJ	
ROTUNDO	ONTP MIN	

LD 310 proposed to require a 10-day waiting period before a firearm may be sold or transferred to any person who has not attained 22 years of age.

**Committee Amendment "A" (H-264)** proposed to replace the bill and was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to repeal the current provisions regarding transferring a firearm to a minor and regarding transferring a handgun to a minor and combine them into one section to prohibit the transfer without parental consent of any firearm to a person under 18 years of age. The amendment proposed to describe the prohibited conduct and create affirmative defenses to the crime, some of which currently exist as affirmative defenses in the Maine Revised Statutes, Title 17-A, section 554-A and some of which currently exist as exceptions to the crime in Title 17-A, section 554-B. The amendment also proposed to change the title to reflect the intent of the amendment. This amendment was not adopted.

**House Amendment "A" to Committee Amendment "A" (H-282)** proposed to require a 5-day waiting period before a firearm may be sold to any person who has not attained 19 years of age. This amendment was not adopted.

**Senate Amendment "A" to Committee Amendment "A" (S-141)** proposed to do the same as House Amendment "A" to Committee Amendment "A." This amendment was not adopted.

**LD 326**

### **An Act To Impose Mandatory Minimum Sentences for Certain Sexual Offenses**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN	ONTP MAJ	
	OTP-AM MIN	

LD 326 proposed to require a minimum sentence of 10 years in prison for a crime of gross sexual assault or sexual abuse of a minor and 20 years for a 2nd or subsequent offense. This bill also proposed to prohibit the reduction of the minimum sentence through suspension or plea bargaining.

**Committee Amendment "A" (H-384)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. It proposed to add an appropriations and allocations section to the bill. This amendment was not adopted.

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**LD 333**

### **An Act Regarding the Sale of Firearms at Gun Shows**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY	ONTP MAJ	
STRIMLING	OTP-AM MIN	

LD 333 proposed to require that a national instant criminal background check be performed prior to the sale or transfer of a firearm at a gun show. The bill proposed to require gun show operators to post signs at gun shows to notify exhibitors of the background check requirement, to notify in writing all exhibitors that a background check must be completed prior to each sale or transfer and to provide unlicensed sellers and transferors with access to licensed sellers and transferors who will undertake the required background checks for them.

LD 333 proposed that a failure to perform any of these requirements may result in a fine of up to \$10,000 for each such failure. The bill also proposed to define “gun show,” “licensed firearms dealer” and “national instant criminal background check” for purposes of this statute.

**Committee Amendment "A" (H-383)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to replace the penalty provision of the bill, which would have allowed the court to adjudge a fine of not more than \$10,000 for any violation, to allow the court to adjudge a fine of not more than \$1,000 for the first violation, not more than \$2,500 for a 2nd violation and not more than \$5,000 for a 3rd or subsequent violation. This amendment was not adopted.

**LD 344**

### **An Act To Authorize the Regulation of Firearms on Public Property**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
ROTUNDO	ONTP MAJ	
TWOMEY	OTP-AM MIN	

LD 344 proposed to explicitly authorize all public entities, including those with jurisdiction over civic centers, hospitals, universities, libraries, schools and municipal offices, to regulate the possession of firearms on public property under those entities’ jurisdictions. Current law’s one exception to the state preemption of the regulation of firearms is the right of a municipality to regulate the discharge of firearms within that municipality.

**Committee Amendment "A" (S-236)** proposed to replace the bill and was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. It proposed to establish a basic prohibition against possessing or carrying firearms on public property. It also proposed to provide exceptions to that basic policy for:

1. A law enforcement officer authorized to carry a firearm;
2. A person authorized to carry a firearm on public property by order, ordinance, rule or regulation of the governing body of the public property;
3. A person who possessed a hunting license and who was on property where hunting was lawfully permitted; and

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4. A person whose firearm was located inside a motor vehicle if that person was otherwise lawfully entitled to possess that firearm.

This amendment was not adopted.

<b>LD 348</b>	<b>An Act To Expand the Home-release Monitoring Program for a Person with a Terminal Illness</b>	<b>PUBLIC 68</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GERZOFSKY STRIMLING	OTP-AM	H-120

LD 348 proposed to amend the supervised community confinement program to expand the options for release to the community of a prisoner who is terminally ill when the release is medically appropriate. The bill proposed to allow a prisoner to be transferred to a private residence with in-home medical hospice care, subject to approval by the Commissioner of Corrections.

**Committee Amendment "A" (H-120)** proposed to expand the options for release to the community of a county jail inmate who is terminally ill when the release is medically appropriate. The amendment proposed to allow a county jail inmate to be transferred to a private residence with in-home medical hospice care, subject to approval by the sheriff. This amendment also proposed to make technical changes to the bill.

### *Enacted law summary*

Public Law 2005, chapter 68 amends the supervised community confinement program to expand the options for release to the community of a prisoner who is terminally ill when the release is medically appropriate. Public Law 2005, chapter 68 allows a prisoner to be transferred to a private residence with in-home medical hospice care, subject to approval by the Commissioner of Corrections. Public Law 2005, chapter 68 also amends the home-release monitoring program to expand the options for release to the community of a county jail inmate who is terminally ill when the release is medically appropriate. Public Law 2005, chapter 68 allows a county jail inmate to be transferred to a private residence with in-home medical hospice care, subject to approval by the sheriff.

<b>LD 351</b>	<b>An Act To Provide the Portland Harbor Commission with the Authority To Arrest</b>	<b>P &amp; S 4</b>
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLISS BARTLETT	OTP-AM	H-98

LD 351 proposed to give the Portland Harbor Commission the power to arrest, making its powers consistent with those of other harbor commissions around the State.

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**Committee Amendment "A" (H-98)** proposed to clarify that the Portland Harbor Commission harbor master not only enjoys all the authority of harbor master with general law, but is subject to all the same duties and liabilities of harbor masters.

### ***Enacted law summary***

Private and Special Law 2005, chapter 4 gives the Portland Harbor Commission the power to arrest, making its powers consistent with those of other harbor commissions around the State. Private and Special Law 2005, chapter 4 specifies that the Portland Harbor Commission harbor master not only enjoys all the authority of harbor master with general law, but is subject to all the same duties and liabilities of harbor masters.

**LD 357**

**An Act Regarding Bail Conditions**

**PUBLIC 449**

Sponsor(s)  
GROSE  
STRIMLING

Committee Report  
OTP-AM

Amendments Adopted  
H-322

LD 357 proposed to amend the Maine Bail Code by:

1. Allowing as a condition of bail that a person enter and remain in a long-term residential facility for substance abuse. The bill proposed that a violation of this condition by a person whose underlying crime is punishable by a year or more in prison is a Class C crime; and
2. Allowing a judge or justice to revoke an order of preconviction bail that has been set by a bail commissioner.

**Committee Amendment "A" (H-322)** proposed to renumber the new bail condition in the bill that a person enter and remain in a long-term residential facility for substance abuse so that it would follow a similar preconviction bail condition for treatment and precede the general provision that allows for any other condition reasonably necessary in the Maine Revised Statutes, Title 15, section 1026, subsection 3, paragraph A, subparagraph (18). The amendment also proposed to clarify the provision regarding revocation of a preconviction bail order. Specifically, the amendment proposed to authorize a judge or justice to revoke the preconviction bail order of a bail commissioner and also to authorize a judge or justice to revoke preconviction bail entered by another judge or justice of the same court.

### ***Enacted law summary***

Public Law 2005, chapter 449 amends the Bail Code by:

3. Allowing as a condition of bail that a person enter and remain in a long-term residential facility for substance abuse. A violation of this condition by a person whose underlying crime is punishable by a year or more in prison is a Class C crime; and
4. Authorizing a judge or justice to revoke the preconviction bail order of a bail commissioner and authorizing a judge or justice to revoke preconviction bail entered by another judge or justice of the same court.

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**LD 384**

**An Act To Allow a Person To Appeal to the State Police a Denial of  
a Concealed Weapons Permit**

**ONTP**

<u>Sponsor(s)</u> VAUGHAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 384 proposed to allow an appeal of a denial of a concealed weapons permit to the Chief of the State Police if the issuing authority who denied the application is other than the Chief of the State Police. The bill proposed that the appeal be in writing, that it be filed within 21 days of the denial and that the fee be \$25, payable to the Chief of the State Police.

**LD 390**

**An Act To Improve Maine's Sex Offender Notification Laws**

**INDEF PP**

<u>Sponsor(s)</u> MARLEY ANDREWS	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u>
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LD 390 proposed to amend the Sex Offender Registration and Notification Act of 1999 by:

1. Eliminating the time period cut-off in which a conviction must have occurred, making registration apply retroactively to persons who have been convicted of a sex offense or sexually violent offense at any time;
2. Creating a Class C crime for a registrant's failure to register or update information after being notified of the duty to do so;
3. Upgrading from a Class D crime to a Class B crime a subsequent violation for failing to register or update information;
4. Requiring law enforcement officials to notify the public upon the conviction of a person for a sexually violent act; and
5. Forbidding a registrant from residing within 1,000 feet of a school, child care facility or recreational facility where minors congregate, violation of which would be a Class C crime.

**Committee Amendment "A" (H-618)** proposed to replace the bill. The amendment proposed to apply the requirements of the Sex Offender Registration and Notification Act of 1999 to persons sentenced in Maine on or after January 1, 1982 for sex offenses or sexually violent offenses as adults or as juveniles sentenced as adults and to persons sentenced in another jurisdiction as adults or as juveniles sentenced as adults at any time for offenses that require registration in the jurisdiction of conviction pursuant to that jurisdiction's sex offender registration laws, or that would have required registration had the persons remained there, or on or after January 1, 1982 for offenses that contain the same essential elements of a sex offense or sexually violent offense. The amendment also proposed to change the penalty section to specify that failure to comply with any duty imposed under the Sex Offender Registration and Notification Act of 1999 or a rule adopted pursuant thereto commits a Class D crime, for a 2nd violation a Class C crime and for a 3rd or subsequent violation a Class B crime.

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This amendment was not adopted but the provision making registration retroactive to persons sentenced on or after January 1, 1982 was incorporated into Committee Amendment "A" to LD 1433, An Act to Amend the Sex Offender Registration and Notification Act of 1999. (See also Public Law 2005, chapter 423.)

**LD 417**

### **An Act To Improve the Role of Boards of Visitors for State Correctional Facilities**

**PUBLIC 216**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND GERZOFKY	OTP-AM	S-194

LD 417 proposed to repeal the current provisions regarding boards of visitors and replace them with provisions to do the following.

1. Provide 3-year terms for members of boards of visitors of correctional facilities with the initial terms staggered;
2. Prohibit an employee of the Department of Corrections from serving on a board of visitors;
3. Authorize the Department of Corrections to prescribe departmental policies regarding volunteer activities of board members;
4. Require the Governor to appoint a chair for each board of visitors;
5. Clarify the meeting and reporting responsibilities of the boards of visitors by specifying that each board shall:
  - A. Inspect correctional facilities and be provided access to staff, clients and the facilities;
  - B. Review the management of its assigned facility and provide an annual report to the chief administrative officer of that facility, the commissioner, the Joint Standing Committee on Criminal Justice and Public Safety and to the other boards;
  - C. Appear before the Criminal Justice and Public Safety Committee upon request; and
  - D. Meet at least quarterly; and
6. Direct the Department of Corrections to provide its response to each board's report to the Criminal Justice Committee within one month after receiving the report.

**Committee Amendment "A" (S-194)** proposed to make the following changes to the bill:

1. Specify that at least one member of each board be a licensed provider of mental health services;
2. Create an application provision to allow current board members who work for the Department of Corrections to continue to serve for a period of time after the enactment of the bill to allow for continuity of board work until new appointments are made; and

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3. Make organizational changes to improve readability.

### ***Enacted law summary***

Public Law 2005, chapter 216 does the following:

1. Provides 3-year terms for members of boards of visitors of correctional facilities with the initial terms staggered and specifies that at least one member of each board be a licensed provider of mental health services;
2. Prohibits an employee of the Department of Corrections from serving on a board of visitors;
3. Requires the Governor to appoint a chair for each board of visitors;
4. Clarifies the meeting and reporting responsibilities of the boards of visitors;
5. Provides that volunteer activities of a member of a board of visitors may be prescribed by departmental policies regarding volunteer activities generally; and
6. Creates an application provision to allow current board members who work for the Department of Corrections to continue to serve for a period of time after the enactment of the bill to allow for continuity of board work until new appointments are made.

**LD 462**

**An Act To Make the 3rd Violation of OUI a Class C Crime**

**PUBLIC 438**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL GERZOFSKY	OTP-AM	S-77

LD 462 proposed to increase the class of crime of a 3rd OUI offense within a 10-year period from Class D to Class C.

**Committee Amendment "A" (S-77)** proposed to incorporate a fiscal note.

### ***Enacted law summary***

Public Law 2005, chapter 438 increases from a Class D to a Class C the class of crime for a 3rd OUI offense within a 10-year period.



## *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 500**

### **An Act To Decrease Correctional Costs and To Increase the Number of Probation Officers**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH	ONTP MAJ	
RICHARDSON J	OTP-AM MIN	

LD 500 proposed to require the Department of Corrections to establish a GPS tracking release program for certain nonviolent prisoners. Eligibility for the program would be limited to prisoners with no history of violent or sexual crimes who have earned good time while in prison, have served more than half of their prison terms, have fewer than 36 months left to serve and agree to be fitted with a GPS tracking device. The bill proposed that a prisoner accepted into the program be fitted with the tracking device for the remainder of the prisoner's prison term plus an additional 2 months. The bill proposed that the department contract with a firm with appropriate expertise, which the department must choose through a competitive bidding process, to create the GPS tracking system.

LD 500 proposed that net savings anticipated by the program be directed as follows: 40% to the General Fund; 40% to hire new probation officers; 10% to fund DNA analysis under the DNA Data Base and Data Bank Act; and 10% to fund computer crime law enforcement officers.

LD 500 also proposed that the commissioner report to the Criminal Justice and Public Safety and Appropriations and Financial Affairs Committees annually by January 15th each year regarding the savings that result from implementation of the program.

**Committee Amendment "A" (H-614)** was the minority report of the Joint Standing Committee on Criminal Justice. This amendment proposed to add an appropriations and allocations section to the bill. This amendment was not adopted.

**LD 502**

### **An Act To Enable Police Departments To Solicit Donations for Colleagues Suffering from Catastrophic Illnesses**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COLLINS	ONTP	
EDMONDS		

LD 502 proposed to allow a law enforcement agency, law enforcement association or law enforcement officer to solicit funds for a law enforcement officer who is suffering from a catastrophic illness after the law enforcement agency, association or officer obtains the approval of the governing body of the area in which the solicitation will occur and the Attorney General. LD 502 proposed that funds collected be retained in an escrow account maintained solely for the benefit of the ill law enforcement officer or the heirs of that officer if the officer dies.

## *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 530**

**An Act To Prevent Convicted Felons from Possessing Firearms**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SAVAGE MCKENNEY	ONTP	

LD 530 proposed to prohibit a person convicted of a felony from possessing firearms. Current law allows a person whose sentence has been completely discharged for at least 5 years to apply to the Commissioner of DPS for a permit to possess a firearm. This bill proposed to remove the commissioner's discretion to grant such a permit to possess. Because the federal government prohibits possession of firearms by all felons but creates an exception for possession of antique firearms, the ultimate result of LD 530 would have been that the commissioner could no longer authorize an applicant to possess black powder long guns.

**LD 534**

**An Act To Clarify the Authority of the Maine State Police**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
STRIMLING	ONTP	

LD 534 proposed to repeal the authority for the State Police to contract with municipalities to provide law enforcement services.

**LD 542**

**An Act To Encourage Greater Efficiencies in the Delivery of  
County Correctional Services**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAMON BARSTOW	ONTP	

LD 542 was a concept draft pursuant to Joint Rule 208.

This bill proposed to encourage greater efficiencies in the delivery of county correctional services using one or more of the following:

1. State funds for cost-benefit analyses and start-up expenses of innovative and cost-saving correctional facilities and programs, including those shared by 2 or more counties;
2. State financial incentives through the community corrections provisions of the Maine Revised Statutes, Title 34-A, section 1210-A for a county or group of counties that demonstrate an ability to reduce the cost of providing correctional services while maintaining the level of service required by state and federal rules, laws and constitutional requirements;
3. Reductions in existing legal, geographic, technological and other impediments to the more efficient delivery of correctional services, including, but not limited to:

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- A. Legal barriers to holding pretrial judicial proceedings and trials in the court nearest the place of incarceration in order to reduce inmate transport costs; and
  - B. Increased utilization of video circuits for arraignments and other proceedings; and
4. A state-administered county correctional facility construction agency modeled along the lines of the programs that finance the construction of public schools or state government facilities.

**LD 548**

**An Act To Enhance the Prosecution of Child Pornography Cases**

**PUBLIC 345**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM	H-577

Under current law, it is illegal to depict a person under 14 years of age in sexually explicit material. This bill proposed to raise the age to under 16 years of age. This bill also proposed to create the affirmative defenses to the crimes of dissemination of sexually explicit material and possession of sexually explicit material that the alleged minor depicted is not an actual person or is not a minor.

**Committee Amendment "A" (H-132)** proposed to incorporate a fiscal note. This amendment was not adopted.

**Committee Amendment "B" (H-577)** proposed to strike from the bill the affirmative defense that the alleged minor depicted is not an actual person or is not a minor. The amendment instead proposed to amend the permissible inference provision that, subject to Rule 303 of the Maine Rules of Evidence, authorizes one to draw an inference that the person depicted is an actual person.

### ***Enacted law summary***

Under current law, it is illegal to depict a person under 14 years of age in sexually explicit material. Public Law 2005, chapter 345 raises the age to under 16 years of age. Public Law 2005, chapter 345 also amends the permissible inference provision that, subject to Rule 303 of the Maine Rules of Evidence, authorizes one to draw an inference that the person depicted is an actual person.

**LD 554**

**An Act To Strengthen Probation Requirements for Convicted Sex Offenders**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BERUBE SNOWE-MELLO	ONTP	

LD 554 proposed to increase the period of probation to life for persons convicted of more than one sex offense.

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**LD 619**

**Resolve, Directing the Department of Health and Human Services,  
Bureau of Health To Review Youth Camp Counselor Hiring  
Practices**

**RESOLVE 99**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW MAYO	OTP-AM	H-575

LD 619 proposed to require owners and operators of camps established for recreational or educational activities for children to conduct background checks on employees and applicants for employment.

**Committee Amendment "A" (H-575)** proposed to replace the bill. The amendment proposed to create a resolve that directs the Department of Health and Human Services, Bureau of Health, in cooperation with the Maine Coalition Against Sexual Assault, the Maine State Police, the Maine Youth Camping Association and the YMCA Alliance of Maine, to evaluate the effectiveness of the bureau's rules concerning camp counselor hiring practices to protect children attending youth camps from sexual abuse. The amendment proposed that no later than January 15, 2006, the Bureau of Health shall report its findings and any proposed recommendations regarding camp counselor hiring practices to protect children attending youth camps from sexual abuse to the Joint Standing Committee on Criminal Justice and Public Safety. The amendment also proposed that upon receiving the bureau's recommendations, the Joint Standing Committee on Criminal Justice and Public Safety may report out implementing legislation if necessary.

### *Enacted law summary*

Resolve 2005, chapter 99 directs the Department of Health and Human Services, Bureau of Health, in cooperation with the Maine Coalition Against Sexual Assault, the Maine State Police, the Maine Youth Camping Association and the YMCA Alliance of Maine, to evaluate the effectiveness of the bureau's rules concerning camp counselor hiring practices to protect children attending youth camps from sexual abuse. No later than January 15, 2006, the Bureau of Health shall report its findings and any proposed recommendations regarding camp counselor hiring practices to protect children attending youth camps from sexual abuse to the Joint Standing Committee on Criminal Justice and Public Safety. Upon receiving the bureau's recommendations, the Joint Standing Committee on Criminal Justice and Public Safety may report out implementing legislation if necessary.

**LD 620**

**An Act To Clarify the Liquor Enforcement Laws**

**PUBLIC 139**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BARSTOW BARTLETT	OTP-AM	H-179

LD 620 proposed to authorize law enforcement officers to enforce the liquor laws, which were previously enforced by liquor enforcement agents.

**Committee Amendment "A" (H-179)** proposed to replace the bill and to allow the Commissioner of Public Safety to reach agreements with law enforcement agencies to authorize them to enforce administrative sanctions against liquor licensees and the licensees' agents and employees. The amendment also proposed to allow the

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commissioner to authorize contract officers to perform the same function. Contract officers would be exempt from the basic law enforcement training requirements.

### ***Enacted law summary***

Public Law 2005, chapter 139 allows the Commissioner of Public Safety to reach agreements with law enforcement agencies to authorize those agencies to enforce administrative sanctions against liquor licensees and the licensees' agents and employees. Public Law 2005, chapter 139 also allows the commissioner to authorize contract officers to perform the same function. The contract officers are exempt from the basic law enforcement training requirements.

**LD 638**

**An Act To Protect Public Safety and Help Offenders Return Safely  
to the Community**

**ONTP**

Sponsor(s)  
FAIRCLOTH

Committee Report  
ONTP

Amendments Adopted

LD 638 proposed to expand the list of Class D and Class E offenses for which sentencing alternative of probation may be imposed to include:

1. A Class D or Class E crime that was initially charged by the attorney for the State as a Class A, Class B or Class C crime;
2. A Class D crime committed by a person who has a prior conviction for a Class A, Class B, Class C or Class D crime under the Maine Revised Statutes, Title 17-A; a prior conviction under the laws governing operating under the influence; or a prior conviction under the laws governing habitual offenders;
3. A Class D crime for failure to control or report a dangerous fire;
4. A Class D crime for possession of a schedule W drug; and
5. A Class D crime for cruelty to animals.

The bill also proposed to expand the list of Class A, Class B and Class C offenses for which the former statutory length of probation, which is 6 years for Class A crimes and 4 years for Class B and C crimes, may be imposed. The bill proposed that the former statutory length of probation may be imposed if the State pleads and proves that a person was convicted of a Class A, Class B or Class C crime and has a prior conviction for a Class A, Class B, Class C or Class D crime under Title 17-A, a prior conviction under the laws governing operating under the influence or a prior conviction under the laws governing habitual offenders. The bill also proposed that the former statutory length of probation may be imposed if the State pleads and proves that a person was convicted of unlawful trafficking in a schedule W drug, aggravated trafficking of scheduled drugs or certain offenses involving possession of a schedule W drug.

The bill also proposed to provide that a person sentenced to a term of imprisonment on or after October 1, 2005 may receive a reduction in that term of imprisonment of up to 3 days per calendar month for good behavior and up to 2 days per calendar month for fulfillment of responsibilities assigned in the person's transition plan for work, education or rehabilitation programs.

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**LD 646**

**An Act To Mandate Payment of Licensed Sign Language  
Interpreters for Driver Education Students**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND SYKES	ONTP	

LD 646 proposed to require the forfeiture of a motor vehicle when the defendant is the sole owner-operator of the vehicle and has 3 of any combination of OUIs or refusals to submit to chemical testing within a 5-year period.

**LD 670**

**An Act To Protect Children Using Maine's Athletic Fields and  
Parks from Drug Dealers**

**PUBLIC 415**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOTHAM DAVIS P	OTP-AM	H-258 S-395 ROTUNDO

LD 670 proposed to create safe zones, including athletic fields, parks, playgrounds, recreational facilities or any other area frequented by minors that is designated as a safe zone by a municipality. This bill proposed to make it an aggravated offense to traffick, furnish or cultivate drugs within 1,000 feet of a safe zone. If a municipality designates an area a safe zone, the municipality would be required to mark the safe zone with an informational sign provided by the Commissioner of Public Safety.

**Committee Amendment "A" (H-258)** proposed to amend the bill by narrowing the definition of "safe zone" to include only athletic fields, parks, playgrounds and recreational facilities. The amendment also proposed to clarify that municipalities that choose to designate safe zones must conspicuously mark them with signs designed and made available by the Department of Public Safety and that the municipalities must pay for the signs.

**Senate Amendment "A" to Committee Amendment "A" (S-395)** proposed to replace the committee amendment and make it clear that a municipality may, but is not required to, post certain areas that minors frequent as safe zones. Like Committee Amendment "A," this amendment proposed that a "safe zone" include only athletic fields, parks, playgrounds and recreational facilities. The amendment proposed that a municipality may do this by posting an informational sign in a conspicuous place. The amendment also proposed that the Commissioner of Public Safety shall establish uniform wording to be used on the signs and provide the wording to the municipalities. The amendment proposed that the commissioner is not responsible for providing the signs.

### ***Enacted law summary***

Public Law 2005, chapter 415 authorizes, but does not require, a municipality to post certain areas that minors frequent as "safe zones." Safe zones are athletic fields, parks, playgrounds and recreational facilities. It is an aggravated offense to traffick, furnish or cultivate drugs within 1,000 feet of a safe zone. A municipality may designate a safe zone by posting an informational sign in a conspicuous place. The Commissioner of Public Safety shall establish uniform wording to be used on the signs and provide the wording to municipalities. The commissioner is not responsible for providing the signs.

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**LD 702**                      **An Act To Increase Sentences of Imprisonment for Repeat Sex Offenders**                      **ONTP**

<u>Sponsor(s)</u> THOMPSON MITCHELL	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 702 proposed to require the court to impose a minimum mandatory sentence of imprisonment of at least 30 years, of which 20 years may not be suspended, for persons convicted of a gross sexual assault or any other Class A or Class B crime under the Maine Revised Statutes, Title 17-A, chapter 11, Sex Assaults or under Title 17-A, chapter 12, Sexual Exploitation of Minors, if that person has 2 prior convictions for any of these crimes or similar crimes committed in other jurisdictions.

**LD 703**                      **An Act To Clarify the Offense of Burglary of a Motor Vehicle**                      **ONTP**

<u>Sponsor(s)</u> MILLS J	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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Currently, the law differentiates between entry of an unlocked motor vehicle with the intent to commit a crime therein, a Class D crime, and forcible entry of a motor vehicle with the intent to commit a crime therein, a Class C crime. LD 703 proposed to remove that distinction and provide that unlawful entry of a motor vehicle is a Class D crime, regardless of the manner of entry.

**LD 714**                      **Resolve, To Benefit Public Safety Using Retired Law Enforcement Officers**                      **ONTP**

<u>Sponsor(s)</u> NUTTING R CLUKEY	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 714 proposed to direct the Commissioner of Public Safety to implement a certification process by July 22, 2005, to allow retired law enforcement officers to carry concealed weapons pursuant to the federal Law Enforcement Officers Safety Act of 2004.

**LD 719**                      **An Act To Protect Victims of Domestic Violence and Sexual Assault**                      **ONTP**

<u>Sponsor(s)</u> VAUGHAN	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 719 proposed to allow a person who has been the victim of gross sexual assault or domestic violence or has been threatened with domestic violence and has filed a police report regarding that threat to carry a concealed weapon unless that person has been convicted of murder or a Class A, B or C crime.

**LD 760**                      **An Act To Assist Municipalities in Recruiting Emergency Services Personnel**                      **ONTP**

<u>Sponsor(s)</u> RECTOR SAVAGE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 760 proposed to require that if a municipality offers coverage under a group health plan to its employees, it must also offer the same option for health coverage to a person employed by or under contract with the municipality who provides emergency services. The bill did not propose to require that a municipality pay for any portion of the premium for eligible emergency services personnel, unless required to do so by a collective bargaining agreement or other contractual obligation.

**LD 812**                      **An Act To Make Illegal Possession of Certain Narcotic Drugs a Class C Crime**                      **PUBLIC 442**

<u>Sponsor(s)</u> PERRY A DAMON	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-121
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LD 812 proposed to make illegal possession of oxycodone, hydrocodone and hydromorphone a Class C crime.

**Committee Amendment "A" (H-121)** proposed to incorporate a fiscal note.

### *Enacted law summary*

Public Law 2005, chapter 442 makes illegal possession of oxycodone, hydrocodone and hydromorphone a Class C crime.

**LD 834**                      **An Act To Prevent Camcorder Piracy**                      **PUBLIC 199**

<u>Sponsor(s)</u> GERZOFISKY DAVIS P	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-259
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LD 834 proposed to amend Title 17 to authorize a motion picture theater owner to detain a person suspected of illegally recording motion pictures, just as a storeowner may detain a person suspected of shoplifting. This bill proposed to amend the theft by unauthorized taking law by adding the Class C offense of knowingly operating an



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audiovisual or audio recording function of any device in a motion picture theater without the written consent of the theater owner. The bill also proposed to amend the definition of “value” in the theft laws to provide that, notwithstanding the requirement that if a minimum value cannot be ascertained the value is deemed to be less than \$500, the value of any audio or visual recording obtained without written consent of the theater owner is deemed to be no less than \$5,000.

**Committee Amendment "A" (H-259)** proposed to retain the current 1/2 hour detention of persons suspected of stealing allowed merchants while waiting for law enforcement to arrive. Instead of deeming the value of an audio or video recording to be \$5,000, the amendment proposed to authorize the value to be deemed to be more than \$500 but less than \$1,000, unless a higher value can be proven. The amendment also proposed to specify that the new crime requires that the purpose of the person filming be to make a copy of the motion picture and to reclassify the crime as a Class D crime.

### *Enacted law summary*

Public Law 2005, chapter 199 makes camcorder piracy and receiving stolen property obtained through camcorder piracy a Class D crime. Camcorder piracy includes the necessary element that the purpose of the person filming is to make a copy of the motion picture. The value of any audio or visual recording that is unlawfully acquired is deemed to be more than \$500 but less than \$1,000, unless a higher value can be proven.

Public Law 2005, chapter 199 also authorizes motion picture theater owners to detain a person suspected of camcorder piracy if there is probable cause to believe the person is unlawfully concealing part of or operating an audiovisual or audio recording function of any device in the motion picture theater while a motion picture is being exhibited, without the written consent of the motion picture theater owner. The purposes of detention include requiring the person being detained to provide identification, to verify the identification, to inform a law enforcement officer of the detention, to surrender that person to the officer and to take possession of and hold stolen merchandise or recordings and related equipment pending arrival of law enforcement.

**LD 847**

**An Act To Increase the Class of Crime for Home Trespass**

**ONTP**

Sponsor(s)  
LEWIN  
ANDREWS

Committee Report  
ONTP

Amendments Adopted

LD 847 proposed to increase the class of crime for a first-time criminal trespass offense from a Class D to Class C and to require that the court impose a minimum mandatory sentence of incarceration of 3 years, none of which may be suspended. The bill proposed that the court shall impose for a 2nd offense a minimum mandatory sentence of incarceration of 5 years' imprisonment, none of which may be suspended and for a 3rd or subsequent violation, which is a Class B crime, a minimum mandatory sentence of imprisonment of 10 years' imprisonment, none of which may be suspended.

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LD 862

### **An Act To Improve the Collection of Restitution and Supervision Fees**

PUBLIC 389

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE CLUKEY	OTP-AM	H-669

LD 862 proposed to clarify the obligation of offenders by requiring the court to be clearer when ordering restitution and, in cases of joint and several restitution orders, by giving the department and the district attorneys the ability to continue to collect from offenders and distribute money back to offenders. The bill proposed to require that supervision fees be ordered only once for concurrent crimes. Finally, the bill proposed to clarify issues regarding disbursement of fines to the courts.

**Committee Amendment "A" (H-669)** proposed to provide that records pertaining to a crime victim's current address or location or from which the current address or location could be determined are confidential, except for current statutory exceptions. The amendment proposed to give the court authority to deviate from joint and several liability in cases involving more than one defendant only if the court determines that a defendant should not equally share the burden of restitution. The amendment also proposed to provide that if a tax refund is used to offset restitution owed to a crime victim, the collection fee may not be deducted from the amount owed to the victim.

#### ***Enacted law summary***

Public Law 2005, chapter 389 does the following:

1. Clarifies the obligation of offenders by requiring the court to be clearer when ordering restitution and, in cases of joint and several restitution orders, by giving the department and the district attorneys the ability to continue to collect from offenders and distribute money back to offenders. The court may deviate from joint and several liability in cases involving more than one defendant only if the court determines that a defendant should not equally share the burden of restitution;
2. Provides that if a tax refund is used to offset restitution owed to a crime victim, the collection fee may not be deducted from the amount owed to the victim;
3. Requires that supervision fees be ordered only once for concurrent crimes;
4. Clarifies issues regarding disbursement of fines to the courts; and
5. Provides that records pertaining to a crime victim's current address or location or from which the current address or location could be determined are confidential, except for current statutory exceptions.

The bill as amended was reviewed and evaluated by the Joint Standing Committee on Judiciary pursuant to the Maine Revised Statutes, Title 1, section 434, which requires review and evaluation of new exceptions to laws governing public records.

## *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 872**

**An Act To Extend Registration for Violent Sex Offenders**

**ONTP**

Sponsor(s)  
GERZOFKY  
BRYANT B

Committee Report  
ONTP

Amendments Adopted

LD 872 proposed to extend the application of the Sex Offender Registration and Notification Act of 1999 to persons convicted of a sexually violent offense after January 1, 1982.

This bill was not enacted, but the making registration retroactive to January 1, 1982 was incorporated into Committee Amendment "A" to LD 1433, An Act to Amend the Sex Offender Registration and Notification Act of 1999. (See also Public Law 2005, chapter 423.)

**LD 874**

**An Act To Amend the Laws Governing Concealed Firearms Permits**

**DIED BETWEEN  
HOUSES**

Sponsor(s)  
CEBRA

Committee Report  
ONTP MAJ  
OTP-AM MIN

Amendments Adopted

LD 874 proposed to amend the concealed firearms permit requirements in the following ways:

1. Remove the limit of a reciprocity agreement being only with 2 other states;
2. Require the Chief of the State Police to enter into a reciprocity agreement with another state if that other state has equal or stricter concealed firearms permit requirements and the other state grants reciprocity to concealed firearm permits issued in the State; and
3. Remove the requirement that the applicant for a concealed firearms permit be of "good moral character."

**Committee Amendment "A" (H-385)** proposed to replace the bill and was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to remove from the current reciprocity law the restriction that the Chief of the State Police may enter into reciprocity agreements with only 2 other states and to allow the Chief of the State Police to enter into reciprocity agreements with an unlimited number of states if those states meet all other statutory criteria for reciprocity. This amendment was not adopted.

**LD 893**

**An Act To Change Mandatory Minimum Sentences in Certain Cases**

**ONTP**

Sponsor(s)  
MILLS P

Committee Report  
ONTP

Amendments Adopted

LD 893 proposed to affect sentences in criminal cases in the following ways:

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1. Decrease the minimum sentence of imprisonment for murder from 25 to 20 years;
2. Repeal mandatory sentences for aggravated trafficking of scheduled drugs, aggravated trafficking or furnishing of counterfeit drugs, aggravated furnishing of scheduled drugs, and aggravated cultivating of marijuana;
3. Grant the sentencing court the authority to deviate from a mandatory minimum sentence and mandatory minimum fine in those circumstances when the court determines that the mandatory fine or sentence would create a substantial injustice and the deviation would not diminish the gravity of the offense or adversely affect public safety. The bill proposed that specific factors must be considered by the court before deviating from the mandatory minimum, including: the nature of the crime; recommendations of the victim, victim's family and the prosecutor; the defendant's prospects for rehabilitation, credible demonstration of remorse and comprehension of the consequences of the crime; and the age, background, physical and mental condition of the defendant, the defendant's family circumstances and whether the crime was a single aberration in the life of the defendant;
4. Remove the cap on fines for operating under the influence and instead authorize the court to impose up to the maximum fine allowed for that specific class of crime; and
5. Change the class of crime for a 3rd OUI conviction in less than 10 years from a Class D to a Class C crime. It also proposed to change the class of crime for 4 or more OUI convictions in a 10-year period from a Class C crime to a Class B crime and to authorize the court to permanently revoke the driver's license of a person convicted of 4 or more OUI violations in a 10-year period.

**LD 903**

### **An Act To Strengthen the Penalties for Furnishing Alcohol to or Allowing Consumption of Alcohol by Minors**

**PUBLIC 292**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING J	OTP-AM MAJ	S-237
BLANCHETTE	OTP-AM MIN	

LD 903 proposed to require that a minor who purchases alcohol and an adult who furnishes a minor with the alcohol each receive suspensions of their operator's licenses and to allow a court to grant an operator suspended by these provisions a restricted license in order to go to work, school or a court-ordered counseling program.

**Committee Amendment "A" (S-237)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. This amendment proposed to replace the bill and to do the following:

1. Change the title of the bill;
2. Increase from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of furnishing liquor to a minor. The penalty would be a mandatory fine of \$500, none of which may be suspended;
3. Increase from \$500 to \$1,000 the fine for a 2nd offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;

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4. Increase from \$1,000 to \$1,500 the fine for a 3rd or subsequent offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;
5. Increase from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of allowing a minor to consume liquor. It also proposed to increase the fine for this offense from \$500 to \$1,000, none of which may be suspended; and
6. Increase from \$500 to \$2,000 the fine for a 2nd or subsequent offense of allowing consumption of alcohol by a minor, none of which may be suspended.

**Committee Amendment "B" (S-238)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. This amendment proposed to replace the bill and to make the same changes regarding penalties for furnishing alcohol to a minor or allowing consumption of alcohol by a minor as the Committee Amendment "A", except this amendment also proposed to add a requirement that the court suspend the motor vehicle operator's license of a person who commits 3 or more violations. The suspensions would have been graduated: 30 days for a 3rd offense, 90 days for a 4th offense and one year for a 5th or subsequent offense. This amendment was not adopted.

### ***Enacted law summary***

Public Law 2005, chapter 292 does the following:

1. Increases from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of furnishing liquor to a minor. The penalty for this offense is a mandatory fine of \$500, none of which may be suspended;
2. Increases from \$500 to \$1,000 the fine for a 2nd offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;
3. Increases from \$1,000 to \$1,500 the fine for a 3rd or subsequent offense of furnishing alcohol to a minor within a 6-year period, none of which may be suspended;
4. Increases from less than 14 years of age to less than 18 years of age the age of a minor for purposes of penalizing the first offense of allowing a minor to consume liquor. It also increases the fine for this offense from \$500 to \$1,000, none of which may be suspended; and
5. Increases from \$500 to \$2,000 the fine for a 2nd or subsequent offense of allowing consumption of alcohol by a minor, none of which may be suspended.

**LD 919**

### **An Act Amending Public Notification Laws for Sex Offenders Living Near Schools and Day-care Centers**

**ONTP**

Sponsor(s)  
FAIRCLOTH  
NUTTING J

Committee Report  
ONTP

Amendments Adopted

## *Joint Standing Committee on Criminal Justice and Public Safety*

LD 919 proposed to require law enforcement agencies to provide direct public notification to schools and daycare centers that are located within 1,000 feet of a sex offender registrant's domicile, residence, place of work or school. The bill proposed that if notification must be made to schools and day-care centers, then notification must also be made to any other neighbor located on or within 250 feet of the real property where that sex offender registrant is domiciled, resides, works or attends school. LD 919 also proposed that a registrant must pay the costs of providing this direct notification, and failure to do so would be a Class D crime.

### **LD 927                      An Act To Decrease the Burden on Jails and Improve Treatment                      ONTP for People Living with Mental Illness by Fostering Jail Diversion**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FAIRCLOTH	ONTP      MAJ OTP-AM      MIN	

LD 927 proposed to provide that a jail may not be required to dispense medications in blister packs and that a jail's medication formulary must have the same medications available as in other state institutions. It also proposed to provide that when possible the Department of Health and Human Services must assist jails with the purchase of medications through joint purchasing agreements.

The bill proposed to require that by March 30, 2006, the Department of Corrections:

1. In cooperation with the sheriffs and county commissioners, assist county jails regarding the consolidation and building of specialized units with the capacity to provide acute psychiatric care, stabilization, assessment and treatment of inmates who have been determined to require immediate hospitalization because those inmates are a danger to themselves or others or have an inability to care for self but for whom no forensic hospital beds or other appropriate alternatives are immediately available and shall report regarding the need for these units and recommendations for developing such units; and
2. In collaboration with the sheriffs, report to the Joint Standing Committees on Criminal Justice and Public Safety and Health and Human Services the practice of collecting premiums from the United States Social Security Administration for reporting inmates who receive social security income and any resulting loss of disability status for those inmates.

The bill also proposed to require several task by the Department of Health and Human Services. Specifically, by March 30, 2006, the Department of Health and Human Services would have to:

1. Report to the Joint Standing Committees on Criminal Justice and Public Safety and Health and Human Services regarding the status of the Department of Health and Human Services' implementation of Public Law 2001, chapter 659, including steps taken by the department to enforce Parts B, C and D of that law;
2. Report to the Joint Standing Committees on Criminal Justice and Public Safety and Health and Human Services regarding efforts to provide ongoing funding for community integration services for people with mental illness who receive those services and are incarcerated to prevent interruption of those services;
3. Within existing resources, prepare and present a report to the Joint Standing Committees on Criminal Justice and Public Safety and Health and Human Services comparing the cost of opening additional forensic beds at Bangor Mental Health Institute with the cost of providing additional community-based resources that would

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divert people with mental illness from jail and would help prevent inmates with mental illness from returning to jail; and

4. In collaboration with a statewide mental health services association, report to the Joint Standing Committees on Criminal Justice and Public Safety and Health and Human Services what enhancements are needed in Maine's crisis stabilization units to accommodate Maine's jail inmates in order to provide them with needed crisis stabilization and to avoid or reduce hospital stays.

**Committee Amendment "A" (H-386)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to strike everything from the bill, except the provision regarding the distribution of medication by sheriffs to prisoners. The amendment proposed to maintain the provision authorizing jails to administer medication that is not in blister packs and to direct the Department of Health and Human Services to assist jails in ensuring that their formulary is the same as that of state institutions. It also proposed to clarify that the Department of Corrections is required to assist jails with the purchase of medications through joint purchasing agreements. This amendment was not adopted.

<b>LD 928</b>	<b>Resolve, To Establish the Commission To Study the Commitment Process for Persons Adjudged Not Criminally Responsible</b>	<b>ONTP</b>
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<u>Sponsor(s)</u> BARSTOW HOBBINS	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 928 proposed to create the Commission to Study the Commitment Process for Persons Adjudged Not Criminally Responsible. The bill proposed to require that the commission review the judicial and commitment process for persons who are adjudged not criminally responsible by reason of insanity or mental disease or defect and report its findings and recommendations to the Second Regular Session of the 122nd Legislature. Specifically, the bill proposed that the commission consider:

1. The typical length of time of institutional inpatient residency for a person who is adjudged not criminally responsible for murder or manslaughter;
2. The relationship between the Department of Health and Human Services and the Judicial Department concerning the custody of persons adjudged not criminally responsible for the act of murder or manslaughter; and
3. The adequacy of current psychiatric examination requirements for the release or discharge of patients adjudged not criminally responsible for the act of murder or manslaughter.

<b>LD 970</b>	<b>An Act To Improve Sentencing for Serious Offenders</b>	<b>PUBLIC 447</b>
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<u>Sponsor(s)</u> GREELEY	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-474
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LD 970 proposed to make the following changes to the sentencing laws:

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1. Authorize the court to revoke probation for a crime committed by an inmate who is serving a sentence that does not include probation, if the inmate also has a consecutive sentence that includes a period of probation;
2. Specify that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. Currently, that authority exists only for inmates who commit crimes against corrections staff or institutional property;
3. Expand the list of violent crimes for which the classification may be increased for violent offenders to include assaults against law enforcement officers, corrections officers and emergency medical workers; and
4. For purposes of determining economic loss that may be compensated by an order of restitution, define "critical investigation expense." "Critical investigation expense" proposed to include those necessary expenses incurred by a public agency, person or organization while investigating or prosecuting suspected criminal conduct.

**Committee Amendment "A" (H-474)** proposed to strike from the bill the provision authorizing the court to revoke probation of a person serving a consecutive sentence who commits new criminal conduct during any period of incarceration that precedes the commencement of the period of probation.

The amendment also proposed to strike from the bill the provision that specifies that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. This provision was incorporated into the committee amendment to another bill, LD 1360, "An Act to Improve the Management and Safety of State Correctional Facilities." (See also Public Law 2005, chapter 329.)

The amendment also proposed to clarify what is meant by "critical investigation expense" and to limit the collection of these expenses to cases involving embezzlement and drug investigations.

### ***Enacted law summary***

Public Law 2005, chapter 447 makes the following changes to the sentencing laws.

5. It expands the list of violent crimes for which the classification may be increased for violent offenders to include assaults against law enforcement officers, corrections officers and emergency medical workers.
6. For purposes of determining economic loss that may be compensated by an order of restitution, it defines "critical investigation expense." "Critical investigation expense" includes those necessary expenses incurred by a public agency, person or organization while investigating or prosecuting suspected criminal conduct in cases involving embezzlement and drug investigations.

**LD 983**

**An Act To Make Technical Changes to the Maine Criminal Code**

**PUBLIC 207**

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-323

The 121st Legislature amended the Maine Revised Statutes, Title 17-A, section 959 regarding illegal gambling machines to give the State the authority to order forfeiture of "any associated proceeds" of an illegal gambling machine. However, parallel changes to the procedural provisions in Title 17-A, section 959, subsections 3, 4, 5 and 6 were not made. LD 983 proposed to correct the omission.



## *Joint Standing Committee on Criminal Justice and Public Safety*

LD 983 also proposed to replace an outdated reference to former Title 17-A, section 1205, subsection 8 with a reference to current section 1205-C, subsections 5 and 6. Former Title 17-A, section 1205, subsection 8 was repealed by Public Law 1999, chapter 246.

**Committee Amendment "A" (H-323)** proposed to correct an oversight by adding "reckless conduct; assault" under the Maine Revised Statutes, Title 19-A, section 4011, subsection 4 to the provisions regarding the violation of a protective order under Title 17-A, section 506-B, which pertains to a person who is subject to a protective order issued under Title 19-A and violates that order. The Class C violation under Title 19-A, section 4011, subsection 4 was enacted in Public Law 2001, chapter 420, and the crime was never added to Title 17-A, section 506-B, which lists each type of protective order.

This amendment also proposed to clarify the application of the increased good time authorized pursuant to Public Law 2003, chapter 711 by indicating that the new increases in good time apply only to crimes other than sex offenses and domestic violence offenses. For these crimes, as well as for murder, the prior good time provisions apply.

### ***Enacted law summary***

Public Law 2005, chapter 207 makes a number of technical changes and corrections to the Maine Criminal Code.

1. The 121st Legislature amended the Maine Revised Statutes, Title 17-A, section 959 regarding illegal gambling machines to give the State the authority to order forfeiture of "any associated proceeds" of an illegal gambling machine. However, parallel changes to the procedural provisions in Title 17-A, section 959, subsections 3, 4, 5 and 6 were not made. Public Law 2005, chapter 207 corrects the omission.
2. Public Law 2005, chapter 207 replaces an outdated reference to former Title 17-A, section 1205, subsection 8 with a reference to current section 1205-C, subsections 5 and 6. Former Title 17-A, section 1205, subsection 8 was repealed by Public Law 1999, chapter 246.
3. Public Law 2005, chapter 207 corrects an oversight by adding "reckless conduct; assault" under the Maine Revised Statutes, Title 19-A, section 4011, subsection 4 to the provisions regarding the violation of a protective order under Title 17-A, section 506-B, which pertains to a person who is subject to a protective order issued under Title 19-A and violates that order. The Class C violation under Title 19-A, section 4011, subsection 4 was enacted in Public Law 2001, chapter 420, and the crime was never added to Title 17-A, section 506-B, which lists each type of protective order.
4. Public Law 2005, chapter 207 also clarifies the application of the increased good time authorized pursuant to Public Law 2003, chapter 711 by indicating that the new increases in good time apply only to crimes other than sex offenses and domestic violence offenses. For these crimes, as well as for murder, the prior good time provisions apply.

**LD 984**

**An Act To Amend the Crime of Escape**

**PUBLIC 63**

Sponsor(s)

Committee Report  
OTP

Amendments Adopted

## *Joint Standing Committee on Criminal Justice and Public Safety*

LD 984 proposed to clarify that the Maine Revised Statutes, Title 17-A, section 755, subsection 1-D addresses 2 post-arrest escapes: an unauthorized departure from custody following an arrest prior to being transported from the scene and an unauthorized departure following an arrest while being transported to an initial place of detention or a courthouse. The bill proposed that a courthouse is expressly included to cover an escape from a court-ordered arrest in which the court has ordered the person to be brought directly before the court following the arrest. The bill proposed to remove the reference to "or any other facility enumerated in subsection 3", because subsection 3 includes facilities not relevant to the post-arrest escapes addressed in subsection 1-D. The bill also proposed to specify that the culpable state of mind element, "intentionally," must accompany the prohibited conduct, which is consistent with all the other forms of escape described in Title 17-A, section 755.

### ***Enacted law summary***

Public Law 2005, chapter 63 clarifies that the Maine Revised Statutes, Title 17-A, section 755, subsection 1-D addresses 2 post-arrest escapes: an unauthorized departure from custody following an arrest prior to being transported from the scene and an unauthorized departure following an arrest while being transported to an initial place of detention or a courthouse. A courthouse is expressly included to cover an escape from a court-ordered arrest in which the court has ordered the person to be brought directly before the court following the arrest. The reference to "or any other facility enumerated in subsection 3" is removed, because subsection 3 includes facilities not relevant to the post-arrest escapes addressed in subsection 1-D. Public Law 2005, chapter 63 also specifies that the culpable state of mind element, "intentionally," must accompany the prohibited conduct, which is consistent with all the other forms of escape described in Title 17-A, section 755.

### **LD 1018                      An Act To Require a Criminal Background Check for the Initial                      CARRIED OVER Licensure of Emergency Medical Services Personnel**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP-AM      MAJ OTP-AM      MIN	H-472

LD 1018 proposed to specify that a criminal background check is required only for an applicant for initial licensure as an emergency medical services person. For purposes of EMS licensing now, pursuant to board policy a person must renew a background check every 3 years. The board is authorized by law to establish EMS licensing requirements.

**Committee Amendment "A" (H-472)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to clarify what is intended by a criminal history record check and to conform the language and the process to other statutes regarding the use of criminal history record information for employment or licensing purposes. In order to ensure that all licensed emergency medical services providers are subject to a criminal history record check, the amendment also proposed to specify that those persons who already have a license to provide emergency medical services but never had a criminal history record check must submit to a check at the time they apply for license renewal. Applicants who were subject to a criminal history record check at initial licensure would not be subject to a check at renewal.

**Committee Amendment "B" (H-473)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to clarify what is intended by a criminal history record check

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and to conform the language and the process to other statutes regarding the use of criminal history record information for employment or licensing purposes. This amendment was not adopted.

LD 1018 was carried over on the Special Appropriations Table by S.P. 640 to the next special or regular session of the 122nd Legislature.

**LD 1027**                      **An Act To Ensure the Safety of Victims of Domestic Violence**                      **PUBLIC 388  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PELLETIER-SIMPS	OTP-AM      MAJ	H-531
SULLIVAN	ONTP        MIN	

LD 1027 proposed to require that a defendant charged with a crime in which domestic violence is suspected must be held for at least 4 hours before being released on bail.

**Committee Amendment "A" (H-531)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety. This amendment proposed to replace the bill, change the title, add an emergency and create the definition of "confidential communications" in the Maine Revised Statutes, Title 16, section 53-B, which deals with privileged communications to a victim advocate. The purpose of the new definition is to clarify that a victim, advocate or advocate's agency may not be required to disclose or report personal identifying information of a victim of domestic violence to any agency, including the central reporting system of the Federal Government known as the Homeless Management Information System. The amendment also proposed to add an emergency preamble and clause and amend the title to reflect the purpose of the amendment.

### ***Enacted law summary***

Public Law 2005, chapter 388 creates the definition of "confidential communications" in the Maine Revised Statutes, Title 16, section 53-B, which deals with privileged communications to a victim advocate. The purpose of the new definition is to clarify that a victim, advocate or advocate's agency may not be required to disclose or report personal identifying information of a victim of domestic violence to any agency, including the central reporting system of the Federal Government known as the Homeless Management Information System.

Public Law 2005, chapter 388 was enacted as an emergency measure effective June 14, 2005.

**LD 1114**                      **An Act To Strengthen the OUI Laws**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NASS J	ONTP	
DAVIS P		

LD 1114 proposed to amend the OUI laws by:

1. Establishing a mandatory sentence of 20 days in jail for 2 OUI offenses committed within a 5-year period;

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2. Establishing a mandatory minimum sentence of 6 months in jail for 3 or more OUI offenses committed within a 5-year period and possible revocation of the defendant's driver's license;
3. Providing that a refusal to submit to a test at the request of a law enforcement officer is a Class E crime;
4. Providing that 3 OUI offenses within a 10-year period will result in forfeiture of the defendant's car;
5. Holding a person convicted of OUI financially responsible for the cost of emergency services that responded as a result of an accident that occurred during the occurrence of the OUI offense;
6. Requiring a person convicted of OUI to pay a \$50 fine to the Medical Care for Drunk Driving Victims Fund; and
7. Establishing the Medical Care for Drunk Driving Victims Fund to provide emergency medical care for victims of drunk driving.

**LD 1121**                      **An Act To Establish Owner Liability for Failure To Stop for a Police Officer**                      **ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FISCHER	ONTP	

LD 1121 proposed to establish owner liability for: refusing to stop a vehicle for a law enforcement officer, eluding an officer, passing a roadblock, aggravated eluding or aggravated passing a roadblock. The bill also proposed to create defenses to a violation.

**LD 1140**                      **Resolve, Directing the State Police and the County Sheriff's Departments To Enter into a Call-sharing Agreement**                      **CARRIED OVER**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MCKENNEY		

LD 1140 proposed to direct the Department of Public Safety, Bureau of State Police and the county sheriff's departments to enter into a call-sharing agreement. Specifically, the resolve proposed to direct the State Police and the sheriffs to coordinate forces to have each unit cover ½ of each county at time. Once the time was over, the units would then switch halves.

LD 1140 was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

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**LD 1141**

**An Act To Create the Crime of Vehicular Manslaughter for Persons Who, while Committing a Traffic Infraction, Cause the Death of Another Person**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUPREY	ONTP      MAJ OTP      MIN	

LD 1141 proposed to create the crime of vehicular manslaughter, which is defined as causing the death of another person while operating a motor vehicle and committing a traffic infraction. Vehicular manslaughter would have been a strict liability Class D crime.

**LD 1152**

**An Act To Protect Incompetent Dependents**

**PUBLIC 431**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE	OTP-AM	H-324

LD 1152 proposed to increase the class of crime for endangering the welfare of an incompetent dependent person to a Class C crime if the endangerment results in serious bodily injury and to a Class B crime if the endangerment results in death.

**COMMITTEE AMENDMENT "A" (H-324)** proposed to replace the bill and to repeal and replace the Class D crime of endangering the welfare of a dependent person with 2 crimes based on the defendant's culpable state of mind. The amendment proposed that a person who intentionally or knowingly endangers the welfare of a dependent person commits a Class C crime, and a person who recklessly endangers the welfare of a dependent person commits a Class D crime.

### *Enacted law summary*

Public Law 2005, chapter 431 repeals and replaces the Class D crime of endangering the welfare of a dependent person with 2 crimes based on the defendant's culpable state of mind. A person who intentionally or knowingly endangers the welfare of a dependent person commits a Class C crime, and a person who recklessly endangers the welfare of a dependent person commits a Class D crime.

**LD 1164**

**An Act Regarding the Bureau of State Police, Licensing Division**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE CLUKEY	ONTP      MAJ OTP-AM      MIN	

LD 1164 proposed to adjust fees collected for issuance and renewal of licenses and permits for games of chance and beano, contract security guard companies, private investigators and firearms. Specifically, the bill proposed to do the following:

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1. Increase the fee from \$25 to \$50 for an application for possession of a firearm by a prohibited person under 15 MRSA §393;
2. Increase the fee from \$12 to \$14.25 for each calendar week or from \$36 to \$42.50 for each calendar month or from \$400 to \$472 for each calendar year the license to operate beano or bingo games by volunteer fire departments, agricultural fairs or nonprofit charitable, educational, political, civic, recreational, fraternal, patriotic, religious or veterans' organizations under 17 MRSA §314;
3. Increase from \$7.50 to \$15 the original application fee for a license to operate a game of chance under 17 MRSA §339, sub-§1;
4. Increase from \$15 to \$17.50 for each week or \$60 to \$70 for each calendar month or from \$700 to \$820 for each calendar year the license to operate a game of chance under 17 MRSA §339, sub-§2;
5. Increase from \$15 to \$30 for each week and from \$60 to \$120 for a calendar month the fee for a game of chance license to operate an electronic video machine under 17 MRSA §339, sub-§2-A;
6. Increase from \$7.50 to \$15 the fee for a calendar year for a license issued to operate a game of cards under 17 MRSA §339, sub-§3;
7. Increase from \$625 to \$750 for each calendar year the fee for a license to a distributor under 17 MRSA §339, sub-§4;
8. Increase from \$15 to \$500 for each calendar year the fee for a license to a printer under 17 MRSA §339, sub-§5;
9. Increase from \$35 to \$60 the resident fee for an initial license to carry a concealed weapon and from \$20 to \$60 the fee for a license renewal to carry a concealed weapon under 25 MRSA §2003, sub-§1, ¶E, sub-¶4. It also proposed to increase from \$60 to \$120 the nonresident fee for an initial license or license renewal to carry a concealed weapon under the same provision;
10. Increase from \$400 to \$600 the initial biennial license and license renewal for a private investigator under 32 MRSA §8117; and
11. Increase from \$400 to \$750 the initial license for a contract security company under 32 MRSA §9407. It also proposed to increase from \$200 to \$500 the annual license renewal for a contract security company under 32 MRSA §9408. The bill also proposed that an applicant for an initial license or a license renewal must also pay at that time an additional \$10 fee for each employee, and a licensee must later notify the commissioner of new employees and must submit \$10 for each employee under 32 MRSA §9410-A.

The Department of Public Safety, Bureau of State Police, Licensing Division issues these licenses and permits. The proposed increase in fees would fund 2 additional State Police Detectives and one Clerk Typist III position in the Licensing Division. These positions were eliminated by Public Law 2003, chapter 451. (LD 1614, An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2003, June 30, 2004 and June 30, 2005.)

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**Committee Amendment "A" (H-387)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to add an appropriations and allocations section to the bill. This amendment was not adopted.

**LD 1166**                      **An Act To Impose More Stringent Penalties for Driving after Drinking**                      **ONTP**

<u>Sponsor(s)</u> DUPREY SNOWE-MELLO	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1166 proposed to amend the OUI laws by:

1. Creating the offense of operating while impaired: operating a motor vehicle with a blood-alcohol level of 0.04% to 0.0799%;
2. Creating the offense of operating while inebriated: operating a motor vehicle with a blood-alcohol level of 0.20% or higher;
3. Setting penalties for the offenses of operating while impaired and operating while inebriated and increasing the fine and length of incarceration for OUI; and
4. Authorizing the use of electronic field sobriety tests and allows these tests to be admissible in court.

**LD 1172**                      **An Act To Expunge Criminal Records upon Pardon**                      **ONTP**

<u>Sponsor(s)</u> DAMON BLANCHETTE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1172 proposed to require the Department of Public Safety, State Bureau of Identification and all other state agencies to expunge all records of a crime of a person who has received a full and free pardon by the Governor. This bill also proposed to require the State Bureau of Identification to make the necessary arrangements with the identification division of the Federal Bureau of Investigation to have all references to the pardoned crime deleted from the Federal Bureau of Investigation's identification record and any state materials returned to the contributing agency.

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**LD 1195**                      **An Act To Protect Women and Children from Sexual Predators by Requiring the State Bureau of Identification to Distribute Registrant Information to Town Clerks**                      **ONTP**

<u>Sponsor(s)</u> VAUGHAN DAVIS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1195 proposed to change the names of the crimes of gross sexual assault and sexual abuse of a minor to rape and child molestation. The bill also proposed to require the Department of Public Safety, State Bureau of Identification to distribute information contained in the sex offender registry to town clerks of towns that do not have police departments. The bill also proposed to require a law enforcement agency to notify the bureau by electronic mail if the law enforcement agency has a registrant in its custody.

**LD 1237**                      **An Act To Amend the Sentencing Laws**                      **ONTP**

<u>Sponsor(s)</u> TARDY NASS R	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1237 proposed to allow a court to grant a period of probation as part of an alternative sentence in certain Class D or Class E crimes if the court is satisfied that the period of probation is necessary to deter future criminal conduct or for the safety of the victim of the crime. The bill also proposed to require that a conversion to administrative release or a termination and discharge may not be ordered unless notice of the motion is given to the person's probation officer and the prosecuting attorney. The bill also proposed to make changes to the procedures for issuing a warrant or summons in a commencement of administrative release revocation proceeding.

**LD 1249**                      **An Act To Amend the Crimes of Unlawful Sexual Contact and Unlawful Sexual Touching**                      **PUBLIC 450**

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-325
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LD 1249 proposed to expand the crimes of unlawful sexual contact and unlawful sexual touching by prohibiting a psychiatrist, psychologist or licensed social worker or a purported psychiatrist, psychologist or licensed social worker from engaging in sexual contact or sexual touching with a patient or client undergoing mental health therapy by the treating psychiatrist, psychologist or licensed social worker. This proposed change is consistent with the crime of gross sexual assault in 17-A MRSA, section 253, subsection 2, paragraph I.

**Committee Amendment "A" (H-325)** proposed to incorporate a fiscal note.



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### ***Enacted law summary***

Public Law 2005, chapter 450 expands the crimes of unlawful sexual contact and unlawful sexual touching by prohibiting a psychiatrist, psychologist or licensed social worker or a purported psychiatrist, psychologist or licensed social worker from engaging in sexual contact or sexual touching with a patient or client undergoing mental health therapy by the treating psychiatrist, psychologist or licensed social worker. This change makes the crimes of unlawful sexual contact and unlawful sexual touching consistent with the crime of gross sexual assault in 17-A MRSA, section 253, subsection 2, paragraph I.

**LD 1254**

**An Act Concerning Concealed Firearms Permits**

**ONTP**

Sponsor(s)  
DAVIS P  
HOTHAM

Committee Report  
ONTP

Amendments Adopted

LD 1254 proposed to repeal and replace the concealed firearms permit reciprocity law with a provision that would allow:

1. A person from another state to carry a concealed firearm in Maine if that person has a permit to carry a concealed firearm issued by a state that grants reciprocity to concealed firearms permit s issued by Maine; or
2. A person to carry a concealed firearm in Maine if that person's state does not require any permit to carry a concealed firearm.

**LD 1271**

**An Act Regarding Criminal Use of an Electronic Weapon**

**PUBLIC 264**

Sponsor(s)  
BLANCHETTE  
DIAMOND

Committee Report  
OTP-AM

Amendments Adopted  
H-449

LD 1271 proposed to create the Class D crime of possession of an electronic weapon. The bill proposed that a person is guilty of possession of an electronic weapon if the person possesses an electronic weapon. The bill also proposed that that persons excepted from the new crime of possession include law enforcement officers and corrections officers while carrying out their duties and if their appointing authority has authorized use of the weapon and suppliers of electronic weapons.

**Committee Amendment "A" (H-449)** proposed to replace the bill and to criminalize the intentional, knowing or reckless use of an electronic weapon by a person against another human being with 2 exceptions. First, the amendment proposed that the crime not apply to the use of an electronic weapon by a law enforcement officer, corrections officer or corrections supervisor while engaged in the performance of public duty if an appointing authority has authorized such use of an electronic weapon under the circumstance. Second, the amendment proposed that the crime not apply to the use of electronic weapons by persons when legally entitled to employ deadly force to protect themselves or 3rd persons pursuant to the Maine Revised Statutes, Title 17-A, section 108, subsection 2 or to defend their dwelling places pursuant to Title 17-A, section 104, subsections 3 and 4. The

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amendment proposed that criminal use of an electronic weapon is a Class D crime and that "electronic weapon" be defined similarly to the term in the bill except that the weapon be "designed to have a disabling effect upon human beings" rather than "to cause bodily injury or serious bodily injury to a person" as originally proposed.

### ***Enacted law summary***

Public Law 2005, chapter 264 criminalizes the intentional, knowing or reckless use of an electronic weapon by a person against another human being with 2 exceptions. First, the crime does not apply to the use of an electronic weapon by a law enforcement officer, corrections officer or corrections supervisor while engaged in the performance of public duty if an appointing authority has authorized such use of an electronic weapon under the circumstance. Second, the crime does not apply to the use of electronic weapons by persons when legally entitled to employ deadly force to protect themselves or 3rd persons pursuant to the Maine Revised Statutes, Title 17-A, section 108, subsection 2 or to defend their dwelling places pursuant to Title 17-A, section 104, subsections 3 and 4. Criminal use of an electronic weapon is a Class D crime. "Electronic weapon" is defined as a weapon "designed to have a disabling effect upon human beings." The definition is intended to include, but not be limited to, stun gun weapons, such as Tasers.

**LD 1308**

**Resolve, To Standardize Procedures for Photographic Lineups**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS J	ONTP      MAJ OTP      MIN	

LD 1308 proposed to require the Board of Trustees of the Maine Criminal Justice Academy to study the photographic lineup identification procedures used by law enforcement agencies and develop recommended uniform procedures to be used by all law enforcement agencies in the State to conduct photographic lineups. The bill proposed that the Board of Trustees report its findings and necessary implementing legislation to the Legislature by January 15, 2006.

**LD 1321**

**An Act To Establish a Process for the Civil Commitment of  
Certain Sexual Offenders**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VAUGHAN	ONTP	

LD 1321 proposed to provide a procedure for the commitment of a person determined to be a sexually violent predator if a court finds that the person has a mental abnormality or personality disorder that makes it likely that the person will engage in predatory acts of sexual violence if not confined in a secure facility. LD 1321 proposed to provide protections to a person subject to commitment and to provide care and treatment. The bill proposed that a commitment is subject to annual review and that notice of release or discharge is required for victims, witnesses and other persons identified by the prosecuting attorney. This bill proposed to designate the Commissioner of Corrections and the Commissioner of Health and Human Services as responsible for providing secure facilities for sexually violent predators. This bill also proposed to coordinate release from a secure facility for sexually violent predators with supervised release for sex offenders under the Maine Revised Statutes, Title 17-A, chapter 50.

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**LD 1323**

**An Act To Create the Crime of Producing Graffiti**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWLES COURTNEY	ONTP	

LD 1323 proposed to do the following:

1. Establish the Class D crime of producing graffiti. A person would be guilty of producing graffiti if that person intentionally, knowingly or recklessly causes an inscription, word, figure or design to be marked, etched, scratched, drawn, painted or affixed in any way to the property of another. In addition to any other penalty authorized by law, the bill proposed that a person convicted of producing graffiti is required to either pay restitution to remove the graffiti or repair or replace the property defaced by the graffiti or to clean up the graffiti;
2. For a juvenile adjudicated of committing graffiti, require the court to suspend the juvenile's driver's license for 6 months and require the parent, guardian or legal custodian of the juvenile to pay the restitution if the juvenile fails to do so;
3. Establish the Class E crime of possession of an aerosol paint can with intent to produce graffiti, which would apply to persons who are in possession of 3 or more aerosol paint cans while on public property or the private property of another person without that person's permission; and
4. Establish the Class E crime of illegal sale of aerosol paint cans to a minor. A person would be guilty of this crime if the person sold or furnished an aerosol paint can to a person who has not yet attained 18 years of age, except this crime does not apply to a parent, guardian, teacher or law enforcement officer.

**LD 1356**

**An Act To Amend the Maine Criminal Code Regarding Deferred  
Disposition and Administrative Release**

**PUBLIC 288**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SYKES	OTP	H-536 BLANCHETTE

LD 1356 proposed to require a defendant to pay an administrative supervision fee of not less than \$10 and not more than \$50 per month, as determined by the court, to the appropriate county in cases in which the court grants administrative release or deferred disposition.

**House Amendment "A" (H-536)** proposed to make permissive, rather than mandatory, the imposition by the court of an administrative supervision fee of not more than \$50 per month.

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### ***Enacted law summary***

Public Law 2005, chapter 288 authorizes the court to impose on a defendant an order to pay an administrative supervision fee of not less than \$10 and not more than \$50 per month, as determined by the court, to the appropriate county in cases in which the court grants administrative release or deferred disposition.

**LD 1360**

### **An Act To Improve the Management and Safety of State Correctional Facilities**

**PUBLIC 329**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE	OTP-AM MAJ	H-597
CLUKEY	OTP-AM MIN	

LD 1360 proposed several changes to improve staff and prisoner safety at correctional facilities. Specifically the bill proposed to do the following:

1. Move from Title 28-A to Title 17-A the Class E crime of trafficking of alcoholic beverages in adult correctional facilities and to authorize consecutive sentences for this crime and the crimes of assault and trafficking of tobacco in an adult correctional facility. Currently, the crimes of assault on an officer, escape and trafficking in prison contraband only are authorized to be consecutive;
2. Create the new Class E crime of failure of institutional staff to report to an appropriate criminal justice agency that a person detained in that institution is the victim of gross sexual assault or unlawful sexual contact;
3. Amend the DNA collection statute to expand who is authorized to collect DNA samples to include any Department of Corrections or county jail staff. In addition to duly licensed physicians, physician assistants, registered nurses, licensed practical nurses and persons certified by the Department of Health and Human Services or persons whose occupational license or training allows the drawing of blood, current law allows corrections officers, a probation officers and juvenile community corrections officers to collect a biological sample that is not a blood sample;
4. Repeal language that states that documents in possession of Department of Corrections that are used to screen and assess clients that are now described as “not public records” pursuant to the freedom of access law and propose new language that states that these records “must be kept confidential, except as provided by law;
5. Authorize adult correctional facilities to impose fines as punishment for disciplinary offenses;
6. Repeal the requirement that the Commissioner of Department of Corrections first determine that the average statewide caseload of probation officers is 90 to 1 before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration part of their sentence. The bill proposed to allow transfer to the community confinement program when a prisoner has 2 years remaining on the incarceration portion of the sentence, instead of one year, regardless of the current probation caseload;
7. Repeal a provision referring to special nursing rules regarding the administration of medication in Department of Corrections facilities, since there are no such rules;
8. Require the Commissioner of Department of Corrections, instead of each facility's chief administrative officer, to adopt rules for prisoners' accounts;

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9. Create a supervision fee payment provision for probationers and parolees transferred to Maine from other states that is analogous to the supervision fee payment provision for probationers placed under the supervision of the department by Maine courts; and
10. Amend current law to change archaic and inappropriate references.

**Committee Amendment "A" (H-597)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to do the following:

1. Require institutional staff to report to an appropriate law enforcement agency sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by another client or patient. The bill proposed to criminalize failure to report only assaults committed by other staff;
2. Specify that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately;
3. Specify that only staff members of a county jail or Department of Corrections facility who are designated by the sheriff or jail administrator of that county jail or by the Commissioner of Corrections and are trained to collect biological samples may do so for purposes of DNA collection;
4. Strike that part of the bill that proposed to replace language that states that certain documents in possession of the department that are used to screen and assess clients are "not public records" pursuant to the freedom of access laws with language stating that those are records that "must be kept confidential," with statutory exceptions. This change is not necessary, as the department can now deny access to records that are not public records;
5. Specify that the department may impose "monetary sanctions" instead of "fines" as a form of punishment in correctional facilities;
6. Strike that part of the bill that proposed to repeal the requirement that the commissioner first determine that the average statewide caseload of probation officers is 90 to one before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration portion of their sentence.

**Committee Amendment "B" (H-598)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to make the same changes as the majority report except that it did not propose to strike those sections of the bill that would have repealed the requirement that the Commissioner of Corrections determine that the average statewide caseload of probation officers is 90 to one before increasing the eligibility of prisoners for supervised community confinement to those with 2 years remaining on the incarceration portion of their sentence. The amendment proposed to retain this language, which allows transfer to the community confinement program when a prisoner has 2 years remaining on the incarceration portion of the sentence, instead of one year, regardless of the current probation caseload. This amendment was not adopted.

### *Enacted law summary*

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Public Law 2005, chapter 329 proposes several changes to improve staff and prisoner safety at correctional facilities.

1. It moves from Title 28-A to Title 17-A the Class E crime of trafficking of alcoholic beverages in adult correctional facilities.
2. It specifies that an inmate who commits any crime while sentenced may have that sentence interrupted and serve the sentence for the new crime immediately. Currently, that authority exists only for inmates who commit crimes against corrections staff or institutional property.
3. It creates the new Class E crime of failure of institutional staff to report to an appropriate criminal justice agency that a person detained in that institution is the victim of a sexual assault. Institutional staff must report to an appropriate law enforcement agency any sexual assault that is committed against a person detained in that institution that occurred while the person was in the institution, whether the assault is committed by another staff person or by another client or patient.
4. It amends the DNA collection statute to expand who is authorized to collect DNA samples by specifying that staff members of a county jail or Department of Corrections facility who are designated by the sheriff or jail administrator of that county jail or by the Commissioner of Corrections and are trained to collect biological samples may do so for purposes of DNA collection.
5. It authorizes adult correctional facilities to impose monetary sanctions as punishment for disciplinary offenses.
6. It repeals a provision referring to special nursing rules regarding the administration of medication in Department of Corrections facilities. Apparently, there are no such rules.
7. It requires the Commissioner of the Department of Corrections, instead of each facility's chief administrative officer, to adopt rules for prisoners' accounts.
8. It creates a supervision fee payment provision for probationers and parolees transferred to Maine from other states that is analogous to the supervision fee payment provision for probationers placed under the supervision of the department by Maine courts.
9. It also amends current law to change archaic and inappropriate references.

**LD 1362**

**An Act Regarding the Maine Criminal Justice Academy**

**PUBLIC 331**

Sponsor(s)  
BLANCHETTE

Committee Report  
OTP-AM

Amendments Adopted  
H-576

LD 1362 proposed to amend the laws related to criminal justice training in the following ways:

1. Specify that the Maine Criminal Justice Academy is a criminal justice training facility, not just a law enforcement training facility;

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2. Clarify the general definitions of a corrections officer and law enforcement officer and add new definitions for part-time law enforcement officer and part-time corrections officer;
3. Require the reporting year for law enforcement and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for criminal justice agencies;
4. Define "transport officers," exempt them from the current basic training requirements and the mandatory policies for law enforcement agencies and require the Board of Trustees of the Maine Criminal Justice Academy to set training standards for them;
5. Add the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned officer of the State Police;
6. Expand the board of trustees' ability to set standards for and certify not only police chiefs, but all criminal justice executives;
7. Correct an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of a law enforcement policy and correct a conflict;
8. Make it a civil violation for a state or local government entity to violate or fail to comply with any of the requirements of the Maine Revised Statutes, Title 25, chapter 341. Current law only penalizes violation of policy provisions;
9. Clarify the time period to be used to determine when a full-time law enforcement officer is required to attend basic training at the academy and extend the waiver period for extenuating circumstances;
10. Require the employing agency to notify the academy within 30 days of hiring or firing a law enforcement or corrections officer;
11. Define reimbursable training as full-time law enforcement officer basic training, require the board of trustees to set standardized reimbursable training costs annually and clarify reimbursement language; and
12. Make minor technical changes and repeal outdated language.

**Committee Amendment "A" (H-576)** proposed to affect the laws regarding policies, training and reporting at the Maine Criminal Justice Academy as follows:

1. Strike from section 2 of the bill the words "care or treatment" to clarify that this section deals only with custody of persons confined in a penal institution and not to teachers, social workers, counselors or medical providers;
2. Clarify the definition of "law enforcement officer;"
3. Specify that transport officers are exempt from basic law enforcement training standards, mandated policies and mandatory annual reporting but are subject to any statutory training requirements specific to that position;
4. Extend from June 1, 2005 to June 1, 2006 the date by which law enforcement agencies must adopt policies regarding community sex offender notification and extend from January 1, 2006 to January 1, 2007 the date by which all law enforcement officers must be trained regarding the community sex offender notification

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policy. It proposed to amend the basic law enforcement training course provision by requiring full-time law enforcement officers to successfully complete the basic training course in the first 12 months of initial employment. If that officer fails to satisfy the admission standards of the basic training course, the officer must meet all entrance standards and be approved by the Board of Trustees of the Maine Criminal Justice Academy before that officer is employed by any agency. The amendment also proposed to increase the extension of the 12-month period from 90 days to 180 days for cases involving extenuating circumstances and to require officers to do their training at the Maine Criminal Justice Academy; and

5. Clarify that the Maine Administrative Procedure Act must be used for all decertification procedures when an officer engages in prohibited conduct.

### ***Enacted law summary***

Public Law 2005, chapter 331 affects issues related to criminal justice training in the following ways.

1. It clarifies the general definitions of a corrections officer and law enforcement officer and adds new definitions for part-time law enforcement officer and part-time corrections officer. It requires the reporting year for law enforcement and corrections officers to be the calendar year, making reporting to the Maine Criminal Justice Academy consistent for criminal justice agencies.
2. It defines "transport officers," exempts them from the current basic training requirements and the mandatory policies for law enforcement agencies and mandatory annual reporting and specifies that they are subject to any statutory training requirements specific to that position.
3. It makes it a civil violation for a state or local government entity to violate or fail to comply with any of the requirements of the Maine Revised Statutes, Title 25, chapter 341.
4. It adds the Chief of the State Police as an ex officio member to the board of trustees and removes a commissioned officer of the State Police.
5. It expands the board of trustees' ability to set standards for and certify not only police chiefs, but all criminal justice executives.
6. It corrects an error enacted by the Second Special Session of the 121st Legislature regarding the implementation of a law enforcement policy and corrects a conflict.
7. It amends the basic law enforcement training course provision by requiring full-time law enforcement officers to successfully complete the basic training course in the first 12 months of initial employment. If that officer fails to satisfy the admission standards of the basic training course, the officer must meet all entrance standards and be approved by the Board of Trustees of the Maine Criminal Justice Academy before that officer is employed by any agency. Public Law 2005, chapter 331 also increases the extension of the 12-month period from 90 days to 180 days for cases involving extenuating circumstances and requires officers to do their training at the Maine Criminal Justice Academy.
8. It requires the employing agency to notify the academy within 30 days of hiring or firing a law enforcement or corrections officer.
9. It requires the board of trustees to set standardized reimbursable training costs annually.



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10. It extends from June 1, 2005 to June 1, 2006 the date by which law enforcement agencies must adopt policies regarding community sex offender notification and extends from January 1, 2006 to January 1, 2007 the date by which all law enforcement officers must be trained regarding the community sex offender notification policy.
11. It clarifies that the Maine Administrative Procedure Act must be used for all decertification procedures when an officer engages in prohibited conduct.
12. It makes minor technical changes and eliminates outdated language.

**LD 1376**

**Resolve, Directing the Department of Corrections To Establish a  
Pilot Project at the Department's Juvenile Correctional Facilities**

**RESOLVE 101**

Sponsor(s)  
STRIMLING  
BLANCHETTE

Committee Report  
OTP-AM

Amendments Adopted  
S-288

LD 1376 proposed to provide that a disposition under the Maine Juvenile Code must be reviewed not less than once in every 6 months until the juvenile is discharged. Current law requires a review not less than once in every 12 months. The bill also proposed to provide that whenever a juvenile is committed to the custody of the Department of Corrections, the court shall assign a guardian ad litem to represent the juvenile, and the court shall set a date for review of that commitment. The bill proposed that at the initial review the court shall review a report submitted by the guardian ad litem and copied to the district attorney and attorney general, who may file a written response. The bill further proposed that the guardian ad litem must attend the initial review and the attorney general may attend. The bill proposed that if a complete review is determined to be necessary, one is held and witnesses may be called. The bill also proposed that if the court determines that necessary services are not being provided by Department of Corrections, the court may direct Department of Corrections to provide those services within a specified time and may schedule a further review. At that review, the court could amend the disposition.

The bill also proposed that guardians ad litem must be provided full access to juvenile records throughout the process and must be invited to classification conferences and any review meetings.

The bill proposed that at least 28 days before any review, the facility in which a juvenile is being held must provide the court and guardian ad litem with information including copies of assessments, case plans, psychological and psychiatric evaluations, treatment plans and any other assessments and minutes from meetings regarding the juvenile.

**Committee Amendment "A" (S-288)** proposed to replace the bill with a resolve that directs the Commissioner of Corrections to create a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a Department of Corrections juvenile facility. The amendment proposed that the commissioner determine criteria for participation of the juveniles in the pilot project, which could include up to 15 juveniles at each facility. The amendment proposed that the pilot project must include guardians ad litem at the Long Creek Youth Development Center recommended by a selection committee, appointed by the juvenile court and trained by the department. The amendment also proposed that the pilot project must include an advocate to work with selected juveniles at the Mountain View Youth Development Center. The amendment proposed to require that the advocate and guardians ad litem meet and work regularly with the juveniles, the

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parents, guardians or legal custodians and review the juveniles' assessments and treatment plans. Within 12 months the advocate and guardians ad litem would have to prepare written reports regarding the services being provided to the juveniles. The amendment proposed that these reports must be provided to the juvenile court, the superintendents of the facilities and the parents, guardians or legal custodians of the juveniles.

The amendment proposed that there be judicial review of the reports and potential recommendations for amended services for juveniles, which the department may implement as it determines appropriate. The amendment proposed to require an evaluation of the pilot project with a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2008. The pilot project would then terminate on April 1, 2008 unless further legislative action was taken.

### ***Enacted law summary***

Resolve 2005, chapter 101 directs the Commissioner of Corrections to create a pilot project to determine the need for judicial review of the services provided to at-risk juveniles committed to a Department of Corrections juvenile facility. The commissioner shall determine criteria for participation in the pilot of up to 15 juveniles at each facility. The pilot project must include guardians ad litem at the Long Creek Youth Development Center recommended by a selection committee, appointed by the juvenile court and trained by the department. The pilot project must also include an advocate to work with selected juveniles at the Mountain View Youth Development Center. The advocate and guardians ad litem shall meet and work regularly with the juveniles, the parents, guardians or legal custodians and shall review the juveniles' assessments and treatment plans. Within 12 months the advocate and guardians ad litem shall prepare written reports regarding the services being provided to the juveniles. These reports must be provided to the juvenile court, the superintendents of the facilities and the parents, guardians or legal custodians of the juveniles. The resolve provides for judicial review of the reports and potential recommendations for amended services for juveniles, which the department may implement as it determines appropriate. The resolve also requires an evaluation of the pilot project with a report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters by January 15, 2008. The pilot project terminates on April 1, 2008 unless further legislative action is taken.

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**LD 1391**                      **Resolve, Regarding Legislative Review of Chapter 15: Batterer Intervention Program Certification, a Major Substantive Rule of the Department of Corrections**                      **RESOLVE 40  
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP	

LD 1391 proposed to provide for legislative review of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections.

### *Enacted law summary*

Resolve 2005, chapter 40 authorizes final adoption of Chapter 15: Batterer Intervention Program Certification, a major substantive rule of the Department of Corrections.

Resolve 2005, chapter 40 was passed as an emergency measure effective May 20, 2005.

**LD 1433**                      **An Act To Amend the Sex Offender Registration and Notification Act of 1999**                      **PUBLIC 423**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BLANCHETTE DIAMOND	OTP-AM	H-607 S-387 GAGNON

LD 1433 proposed to amend the Sex Offender Registration and Notification Act of 1999. Specifically, the bill proposed to do the following:

1. Clarify that the Act applies to persons sentenced at any time in jurisdictions other than Maine if those persons were required to register or would have been required to register in those other jurisdictions if they had remained there;
2. Clarify that "prior conviction" means a conviction that occurred at any time. It specifies that convictions that result from or are connected with the same act or result from offenses committed at the same time are considered one conviction unless the offenses were committed against more than one victim. More than one prior conviction may have occurred on the same day;
3. Repeal language made unnecessary by Public Law 2003, chapter 711, which redefined "sex offense" and defined the terms "another state" and "jurisdiction;"
4. Give the Department of Public Safety, State Bureau of Identification authority to adopt routine technical rules necessary to implement registration and notification practices;
5. Add the duty of a registrant to give notification of the registrant's residence in Maine;

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6. Specify that only the State Bureau of Identification may maintain a sex offender registry on the Internet for purposes of public access. Law enforcement agencies may maintain their own sex offender registries for internal use only and may provide a link to the bureau's Internet sex offender registry;
7. Clarify the duration of registration for persons who come to Maine and were required to register pursuant to another jurisdiction's sex offender registration statute or who would have been required to register in that other jurisdiction if the person were domiciled there;
8. Allow a 10-year registrant to apply to the State Bureau of Identification for credit for time registered in another jurisdiction. The bureau may grant credit upon a registrant's providing documentation in accordance with rules adopted by the bureau; and
9. Clarify that a domicile verification form mailed by the State Bureau of Identification to the last known address provided by a registrant during the period that the registrant is required to register is deemed received 3 days after mailing unless returned to the bureau by postal authorities.

**Committee Amendment "A" (H-607)** proposed to make the following changes to the Sex Offender Registration and Notification Act of 1999:

1. Amend the application section to honor other jurisdictions' determinations with respect to the obligation of offenders to register;
2. Make registration requirements retroactive to persons sentenced for sex offenses or sexually violent offenses on or after January 1, 1982 and adds language necessary to implement this change;
3. Add references to the sentencing alternative of administrative release, which was authorized by Public Law 2003, chapter 711;
4. Clarify the definition of "prior conviction" and references to jurisdiction;
5. Remove language regarding the purpose of a risk assessment instrument to clarify that other agencies besides the Department of Corrections use the tool;
6. Clarify that a registrant's home address must be the physical location of domicile or residence;
7. Clarify the registration process for persons convicted and sentenced in the State and those convicted and sentenced in another jurisdiction, including registration requirements for persons required to register in the State who are domiciled or residing outside the State;
8. Amend the violation and penalty section to specify that failure to comply with a duty imposed under the Sex Offender Registration and Notification Act of 1999 or rule adopted pursuant to it is a Class D crime for a 1st offense, a Class C crime for a 2nd offense and a Class B crime for a 3rd or subsequent offense; and
9. Add a provision that authorizes the Joint Standing Committee on Criminal Justice and Public Safety to meet as needed, but at least 3 times, during the 2005 legislative interim to review current laws governing the sentencing, registration, release and supervision of sex offenders and report out legislation to the Second Regular Session of the 122nd Legislature.

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**Senate Amendment "A" to Committee Amendment "A" (S-387)** proposed to correct an error in Committee Amendment "A" to LD 1433, An Act to Amend the Sex Offender Registration and Notification Act of 1999, and clarify what prior conviction means for purposes of determining who is a lifetime registrant under the Sex Offender Registration and Notification Act of 1999. This correction is necessary for the State Bureau of Identification and other criminal justice officials to accurately identify lifetime registrants. This amendment also proposed to specify that the Joint Standing Committee on Criminal Justice may meet once during the interim, instead of at least 3 times, to review the criminal sentencing laws for sex offenses and the public safety issues related to registration and notification.

### ***Enacted law summary***

Public Law 2005, chapter 423 makes the following changes to the Sex Offender Registration and Notification Act of 1999.

1. It amends the application section to honor other jurisdictions' determinations with respect to the obligation of offenders to register. Specifically, it clarifies that the Act applies to persons sentenced at any time in jurisdictions other than Maine if those persons were required to register or would have been required to register in those other jurisdictions if they had remained there.
2. It makes registration requirements retroactive to persons sentenced for sex offenses or sexually violent offenses on or after January 1, 1982 and adds language necessary to implement this change.
3. It adds references to the sentencing alternative of administrative release, which was authorized by Public Law 2003, chapter 711.
4. It clarifies the definition of "prior conviction" and references to jurisdiction.
5. It removes language regarding the purpose of a risk assessment instrument to clarify that other agencies besides the Department of Corrections use the tool.
6. It clarifies that a registrant's home address must be the physical location of domicile or residence.
7. It clarifies the registration process for persons convicted and sentenced in the State and those convicted and sentenced in another jurisdiction, including registration requirements for persons required to register in the State who are domiciled or residing outside the State.
8. It amends the violation and penalty section to specify that failure to comply with a duty imposed under the Sex Offender Registration and Notification Act of 1999 or rule adopted pursuant to it is a Class D crime for a 1st offense, a Class C crime for a 2nd offense and a Class B crime for a 3rd or subsequent offense.
9. It adds a provision that authorizes the Joint Standing Committee on Criminal Justice and Public Safety to meet during the 2005 legislative interim to review current laws governing the sentencing, registration, release and supervision of sex offenders and report out legislation to the Second Regular Session of the 122nd Legislature.
10. It repeals language made unnecessary by Public Law 2003, chapter 711, which redefined "sex offense" and defined the terms "another state" and "jurisdiction."

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11. It gives the Department of Public Safety, State Bureau of Identification authority to adopt routine technical rules necessary to implement registration and notification practices.
12. It adds the duty of a registrant to give notification of the registrant's residence in Maine.
13. It specifies that only the State Bureau of Identification may maintain a sex offender registry on the Internet for purposes of public access. Law enforcement agencies may maintain their own sex offender registries for internal use only and may provide a link to the State bureau's Internet sex offender registry.
14. It clarifies the duration of registration for persons who come to Maine and were required to register pursuant to another jurisdiction's sex offender registration statute or who would have been required to register in that other jurisdiction if the person were domiciled there.
15. It allows a 10-year registrant to apply to the State Bureau of Identification for credit for time registered in another jurisdiction. The bureau may grant credit upon a registrant's providing documentation in accordance with rules adopted by the bureau.
16. It clarifies that a domicile verification form mailed by the State Bureau of Identification to the last known address provided by a registrant during the period that the registrant is required to register is deemed received 3 days after mailing unless returned to the bureau by postal authorities.

**LD 1439**

**An Act To Increase the Penalties for Cemetery Damage**

**ONTP**

<u>Sponsor(s)</u> THOMPSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1439 proposed to require that, in addition to any other authorized sentencing alternatives, a court shall impose mandatory restitution for adult or juvenile offenders who are convicted or adjudicated of causing damage to a cemetery.

**LD 1447**

**An Act To Increase Civil and Criminal Penalties for Animal Cruelty**

**ONTP**

<u>Sponsor(s)</u> THOMPSON		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1447 proposed to increase the civil fines for cruelty to animals from \$500 to \$2,500 for a first offense to \$1,000 to \$5,000 and from \$1,000 to \$5,000 for a 2nd offense to \$2,000 to \$5,000. This bill proposed to establish fines for a 3rd or subsequent offense at \$5,000 to \$10,000. This bill proposed to increase the criminal fines for cruelty to animals from \$250 for any offense to \$1,000 to \$5,000 for a first offense, \$2,000 to \$5,000 for a 2nd offense and \$5,000 to \$10,000 for a 3rd or subsequent offense. The bill proposed that none of these fines may be suspended. This bill also proposed to require veterinarians to report cases in which they have a reasonable suspicion that animal cruelty has been committed.

## *Joint Standing Committee on Criminal Justice and Public Safety*

**LD 1504**

**An Act To Amend the Statutes Relating to Juveniles**

**PUBLIC 328**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DIAMOND SYKES	OTP-AM	S-289

LD 1504 proposed to make the following changes to the laws regarding juveniles:

1. Amend the laws relating to juveniles who commit adult crimes under Titles 12 and 29-A that are not defined as juvenile crimes in Title 15. The bill proposed that no version of imprisonment is allowed for these violations unless, after the juvenile turns 18, the person violates probation, fails to pay a fine or fails to comply with any other court order that results from the conviction. For these violations, the person could have received a sentence of imprisonment, a split sentence or a suspended sentence. The bill also proposed to eliminate juvenile detention for these crimes since imprisonment is not allowed as a sentence for a juvenile;
2. Add a new condition prohibiting a court from ordering attendant care for a juvenile without the consent of the county sheriff or the Department of Corrections, who fund this type of care;
3. Specify the procedures a law enforcement officer must follow when there is probable cause to believe that a juvenile has committed a juvenile crime that is the equivalent of a “civil violation.” The bill proposed that the juvenile must give the law enforcement officer evidence of name, age, address and date of birth just as adults are required to do, and the law enforcement officer cannot arrest the juvenile for the violation but can arrest the juvenile if the juvenile fails to provide the requested information;
4. Specify the procedures that must be followed when a juvenile is arrested on a warrant, including notification to the juvenile community corrections officer and the following of provisions for secure detention or release consistent with the purposes of detention in the Juvenile Code;
5. Add a provision to eliminate duplicative probable cause determinations. If the juvenile court or another justice of the peace has established probable cause, no additional probable cause determination needs to be made related to detention for that offense. The current requirement is that probable cause be determined within 48 hours of detention, including weekends and holidays;
6. Relax the current requirement that a juvenile cannot be held in excess of 24 hours, excluding weekends and holidays, in approved jail or other secure detention facilities used for adults. The bill proposed to extend the time period from 24 hours to 48 hours, which is consistent with revised federal regulations;
7. Specify that the determination of credit already served by a juvenile is determined by Department of Corrections;
8. Add a provision similar to the adult provision for suspension of an operator's license for using a motor vehicle for drug trafficking, by specifying that a driver's license may not be suspended for more than one year following an adjudication for drug trafficking in which a motor vehicle was used;
9. Repeal a reference to a juvenile proceeding in current law for sexual abuse of a minor, which makes no sense since the crime can only be committed by persons at least 18 years of age;
10. Repeal a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group;

## *Joint Standing Committee on Criminal Justice and Public Safety*

11. Make the provisions regarding juveniles held in observation status the same at Mountain View Youth Development Center as at Long Creek Youth Development Center, which includes constant staff observation if necessary to prevent imminent harm;
12. Ensure appropriate mental health services be provided to juveniles who are detained and committed by expanding the possible range of mental health placements to less restrictive alternatives beyond psychiatric hospitalization. The bill proposed to allow placement of a juvenile, with the juvenile's consent, in a licensed residential care facility providing a mental health treatment program as an alternative to psychiatric hospitalization; and
13. Specify that the Commissioner of Department of Corrections may issue arrest warrants for juveniles who violate provisions of community reintegration or aftercare status.

**Committee Amendment "A" (S-289)** proposed to replace provisions in the bill that specified that, for certain offenses under the Maine Revised Statutes, Titles 12 and 29-A, no version of imprisonment would be allowed for juveniles unless, after the juvenile becomes an adult, the person fails to comply with a court order that results from the conviction. Instead, the amendment proposed to allow juveniles who commit crimes under Title 12 and Title 29-A that are not defined as juvenile crimes to be sentenced to a period of detention not to exceed 30 days if the court determines that such detention is appropriate based on certain criteria, including the nature of the crime and the person's history. The amendment also proposed to make technical changes to ensure that the statutory purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center are consistent.

### *Enacted law summary*

Public Law 2005, chapter 328 makes the following changes to laws regarding juveniles.

1. It allows that juveniles who commit crimes under Title 12 and Title 29-A that are not defined as juvenile crimes be sentenced to a period of detention not to exceed 30 days if the court determines that such detention is appropriate based on certain criteria, including the nature of the crime and the person's history.
2. It prohibits a court from ordering attendant care for a juvenile without the consent of the county sheriff or the Department of Corrections, who fund this type of care.
3. It specifies the procedures that a law enforcement officer must follow when there is probable cause to believe that a juvenile has committed a juvenile crime that is the equivalent of a "civil violation." The section specifies that the juvenile must give the law enforcement officer evidence of name, age, address and date of birth, as adults are required to do, and the law enforcement officer cannot arrest the juvenile for the violation but can arrest the juvenile if the juvenile fails to provide the requested information.
4. It specifies the procedures that must be followed when a juvenile is arrested on a warrant, including notification to the juvenile community corrections officer, and the provisions for secure detention or release consistent with the purposes of detention in the Juvenile Code.
5. It adds a provision to eliminate duplicative probable cause determinations. If the juvenile court or another justice of the peace has established probable cause, no additional probable cause determination needs to be made related to detention for that offense.



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6. It relaxes the current requirement that a juvenile cannot be held in excess of 24 hours, excluding weekends and holidays, in approved jail or other secure detention facilities used for adults. Public Law 2005, chapter 328 extends the time period from 24 hours to 48 hours, which is consistent with revised federal regulations.
7. It prohibits the detention of any juvenile arrested for non-juvenile offenses.
8. It specifies that the determination of credit already served by a juvenile is determined by the Department of Corrections.
9. It adds a provision similar to the adult provision for suspension of an operator's license for using a motor vehicle for drug trafficking, by specifying that a driver's license may not be suspended for more than one year following an adjudication for drug trafficking in which a motor vehicle was used.
10. It repeals a reference to a juvenile proceeding in current law under sexual abuse of a minor, which makes no sense since the crime can only be committed by persons at least 18 years of age.
11. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.
12. It ensures appropriate mental health services be provided to juveniles who are detained and committed by expanding the possible range of mental health placements to less restrictive alternatives beyond psychiatric hospitalization. Public Law 2005, chapter 328 allows placement of a juvenile, with the juvenile's consent, in a licensed residential care facility providing a mental health treatment program as an alternative to psychiatric hospitalization.
13. It makes the provisions regarding juveniles held in observation status the same at Mountain View Youth Development Center as at Long Creek Youth Development Center, which includes constant staff observation if necessary to prevent imminent harm.
14. It specifies that the Commissioner of the Department of Corrections may issue arrest warrants for juveniles who violate provisions of community reintegration or aftercare status.
15. It makes technical changes to ensure that the statutory purposes of the Long Creek Youth Development Center and the Mountain View Youth Development Center are consistent.
16. It repeals a reference to an outdated Executive Order relating to the membership of the Juvenile Justice Advisory Group.

**LD 1505**

**An Act To Amend the Sentencing Laws**

**PUBLIC 265  
EMERGENCY**

Sponsor(s)  
DIAMOND  
BLANCHETTE

Committee Report  
OTP

Amendments Adopted

LD 1505 proposed to do the following:

## *Joint Standing Committee on Criminal Justice and Public Safety*

1. Amend the provision regarding authorized sentences to allow the court to impose a fine along with any other sentencing alternative, except unconditional discharge, deferred disposition and a fine with administrative release;
2. Amend the provision regarding authorized sentences to allow the court to impose a sentencing alternative that includes a split sentence of imprisonment with administrative release as authorized in Title 17-A, chapter 54-G;
3. Amend Title 17-A, §1172, sub-§1 regarding victim notification by adding a reference to "deferred disposition" in and by enacting a new ¶F that imposes a new duty on the attorney for the State when practicable to make a good faith effort to inform a crime victim of the right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release;
4. Enact Title 17-A, §1174-A, which imposes a new duty on the attorney for the State after receiving notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release to disclose to the court any attempts made to notify the victim of the motion and any objection to the motion by the victim. It also proposed to provide the victim a right to be heard on the motion in the event that a hearing is held by the court and the victim is physically present in the courtroom;
5. Amend Title 17-A, §1201, subsection 1, paragraph A-1 by enacting a new subparagraph (1) authorizing probation following conviction for certain Class D and Class E crimes relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode, and as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not never been placed on probation pursuant to this subparagraph. The availability of probation provides the impetus for the attorney for the State to forego the felony in favor of a misdemeanor disposition;
6. Enact a new provision authorizing probation following conviction for a Class D crime of stalking. Currently, probation is authorized for Class D stalking only if committed against a family or household member. It also proposed to enact a new provisions authorizing probation following conviction for a Class D crime in Title 17-A, chapter 45 relating to schedule W drugs and following a conviction for a Class D or E crime under the repeat OUI offender laws;
7. Amend probation laws by imposing on a person on probation the duty to bring a motion if at any time during the period of probation the probationer cannot meet a requirement imposed by the court or a community reparations board;
8. Amend probation conversion laws in 3 ways. First, the bill proposed to replace the word "application" with the word "motion," which more accurately describes the process for modification. Second, the bill proposed to authorize the court to convert a period of probation imposed for the Class C crime of operating after habitual offender revocation to a period of administrative release. Third, the bill proposed that a motion to convert probation to administrative release sought by the probationer, the probation officer or the court on its own motion is contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer;

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9. Amend probation termination laws in 2 ways. The bill proposed to replace the word "application" with the word "motion." The bill also proposed that a motion for termination of probation and discharge sought by the probationer, the probation officer or the court on its own motion is contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer;
10. Enact a provision that imposes on the person granted a deferred disposition the duty to bring a motion at any time during the period of deferment if the person cannot meet a deferment requirement imposed by the court;
11. Clarify which party has the burden of proof and what that burden is by expressly providing that at the hearing on final disposition at the conclusion of the period of deferment the person granted a deferred disposition must demonstrate compliance with the court-imposed deferment requirements by a preponderance of the evidence. Second, it proposed to change current law by providing that in the event the person granted a deferred disposition meets the person's burden of proof, the sentence to be imposed by the court is any sentence alternative authorized for the crime that was either agreed to in writing at the time the sentencing was originally deferred or as amended by agreement of the parties in writing subsequently but prior to the actual sentence being imposed, instead of immediate disposition of unconditional discharge;
12. Clarify which party has the burden of proof by expressly providing that at the hearing on the State's motion to terminate the remainder of the period of deferment and impose sentence the State must demonstrate that the person granted a deferred disposition has inexcusably failed to comply with a court-imposed deferment requirement;
13. Simplify the summons process and the arrest warrant process for persons on deferred disposition;
14. Make a person who has been convicted of operating after habitual offender revocation eligible for a sentence alternative that includes a period of administrative release;
15. Enact a provision that imposes on the person placed on administrative release the duty to bring a motion if at any time during the period of administrative release the person cannot meet a requirement of administrative release imposed by the court;
16. Amend Title 17-A, section 1349-B, subsection 1 in 2 regards. First, the bill proposed to include a reference to the Class C crime of operating after habitual offender revocation, pursuant to Title 29-A, section 2557, as a crime for which, following conviction, the person is eligible for a sentence alternative that includes a period of administrative release. Second, the bill proposed create the new sentencing alternative of a split sentence of imprisonment with administrative release. Currently, only a wholly suspended term of imprisonment could be accompanied by a period of administrative release;
17. Simplify the summons process and the arrest warrant process for persons on administrative release;
18. Empower the Commissioner of Corrections to provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult probationers with a high risk of offending; and
19. Amend the law relative to supervision of persons by probation and parole or intensive supervision program officers by providing that the purpose of supervision of each person placed under the officer's supervision is to ensure that departmental resources are directed to the management of persons with a high risk of reoffending.

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### ***Enacted law summary***

Public Law 2005, chapter 265 codifies the recommendations of the Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners, which was established pursuant to Public Law 2003, chapter 451 and Public Law 2003, chapter 707.

Public Law 2005, chapter 265 does the following.

1. It amends the provision regarding authorized sentences to specify that a fine may be imposed along with any other sentencing alternative, except unconditional discharge, deferred disposition and a fine with administrative release. It also creates a new authorized sentence by allowing the court to impose a sentencing alternative that includes a split sentence of imprisonment with administrative release as authorized in Title 17-A chapter 54-G.
2. It amends Title 17-A, §1172, sub-§1 regarding victim notification by adding a reference to "deferred disposition" and by enacting a new provision that imposes a new duty on the attorney for the State when practicable to make a good faith effort to inform a crime victim of the right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release.
3. It enacts Title 17-A, §1174-A, which imposes a new duty on the attorney for the State after receiving notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release to disclose to the court any attempts made to notify the victim of the motion and any objection to the motion by the victim. It also provides the victim a right to be heard on the motion in the event that a hearing is held by the court and the victim is physically present in the courtroom.
4. It amends Title 17-A, §1201, sub-§1, ¶A-1 by enacting a new sub-¶(1) authorizing probation following conviction for certain Class D and Class E crimes relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode, and as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not never been placed on probation pursuant to this sub-¶. The availability of probation provides the impetus for the attorney for the State to forego the felony in favor of a misdemeanor disposition.
5. It also enacts a new sub-¶(4) to ¶A-1 authorizing probation following conviction for a Class D crime of stalking. Currently, probation is authorized for Class D stalking only if committed against a family or household member. It enacts a new sub-¶(6) to ¶A-1 authorizing probation following conviction for a Class D crime in Title 17-A, chapter 45 relating to a schedule W drug. Finally, it enacts a new sub-¶(7) to ¶A-1 authorizing probation following a conviction for a Class D or E crime under Title 29-A, §2411, sub-§1-A, ¶B (repeat OUI offender).
6. It amends Title 17-A, §1202, sub-§2 by imposing on a person on probation the duty to bring a motion pursuant to the subsection if the probationer, at any time during the period of probation, cannot meet a requirement imposed by the court or a community reparations board.
7. It amends Title 17-A, §1202, sub-§2-A regarding probation conversion in 3 ways. First, the word "application" is replaced by the word "motion," which more accurately describes the process for modification.

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Second, a court is authorized to convert a period of probation imposed for the Class C crime of operating after habitual offender revocation, pursuant to Title 29-A, §2557, to a period of administrative release. Third, a conversion from probation to administrative release by a court sought by the probationer, the probation officer or the court on its own motion is made contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer.

8. It amends Title 17-A, §1202, sub-§3 regarding probation termination in 2 ways. Again the word "application" is replaced by the word "motion." Second, a termination of probation and discharge by a court sought by the probationer, the probation officer or the court on its own motion is made contingent upon notice of the motion being provided to the attorney for the State as well as the probation officer.
9. It enacts Title 17-A, §1348-A, sub-§3, which imposes on the person granted a deferred disposition the duty to bring a motion pursuant to §1348-A, sub-§2 if, at any time during the period of deferment, the person cannot meet a deferment requirement imposed by the court.
10. It amends Title 17-A, §1348-B, sub-§ 1 in 2 ways. First, it clarifies which party has the burden of proof and what that burden is by expressly providing that at the hearing on final disposition at the conclusion of the period of deferment the person granted a deferred disposition must demonstrate compliance with the court-imposed deferment requirements by a preponderance of the evidence. Second, it changes current law by providing that in the event the person granted a deferred disposition meets the person's burden of proof, the sentence to be imposed by the court is any sentence alternative authorized for the crime that was either agreed to in writing at the time the sentencing was originally deferred or as amended by agreement of the parties in writing subsequently but prior to the actual sentence being imposed instead of immediate disposition of unconditional discharge.
11. It amends Title 17-A, section 1348-B, subsection 2 to clarify which party has the burden of proof by expressly providing that at the hearing on the State's motion to terminate the remainder of the period of deferment and impose sentence the State must demonstrate that the person granted a deferred disposition has inexcusably failed to comply with a court-imposed deferment requirement.
12. It amends Title 17-A, §1348-B, sub-§5, repeals §1348-B, sub-§6 and enacts §1348-B, sub-§7, simplifying the summons process and the arrest warrant process for persons on deferred disposition. To obtain the presence of the person granted a deferred disposition at the hearing on final disposition at the conclusion of the period of deferment, the summons process is contemplated. If the person fails to appear after having been served with a summons, the court may then issue a warrant of arrest of the person. To obtain the presence of the person granted a deferred disposition at the hearing on the State's motion to terminate the remainder of the period of deferment and impose sentence, both the arrest warrant process and the summons process are available to the State in order to obtain the appearance of the person.
13. It enacts Title 17-A, §1349-A, sub-§2-A, which imposes on the person placed on administrative release the duty to bring a motion under section 1349-A, subsection 2 if, at any time during the period of administrative release, the person cannot meet a requirement of administrative release imposed by the court.
14. It amends Title 17-A, section 1349-B, subsection 1 in 2 regards. First, it includes a reference to the Class C crime of operating after habitual offender revocation, pursuant to Title 29-A, section 2557, as a crime for which, following conviction, the person is eligible for a sentence alternative that includes a period of administrative release. Second, it creates the new sentencing alternative of a split sentence of imprisonment with administrative release.

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15. It amends Title 17-A, §1349-D to simplify the summons process and the arrest warrant process for persons on administrative release. To obtain the presence of a person who was placed on administrative release at the hearing on the motion to revoke administrative release filed by the State, both the summons process and the arrest warrant process are available to the State.
16. It amends Title 19-A, §4002, sub-§4 to expressly make the definition of "family and household members" contained therein applicable to: Title 17-A, §1201, eligibility for probation; §1202, period of probation; and §1253, calculation of period of imprisonment.
17. It enacts Title 34-A, §5402, sub-§3, ¶F, which empowers the Commissioner of Corrections to provide for necessary assessment and supervision procedures and direct the use of adult probation resources and staff to the management of adult probationers with a high risk of offending.
18. It amends Title 34-A, §5404, sub-§3, ¶A relative to supervision of persons by probation and parole or intensive supervision program officers by providing that the purpose of supervision of each person placed under the officer's supervision is to ensure that departmental resources are directed to the management of persons with a high risk of reoffending.

Public Law 2005, chapter 265 was enacted as an emergency measure effective May 31, 2005.

**LD 1508**

**An Act To Regulate Fire Alarm Contractors**

**CARRIED OVER**

<u>Sponsor(s)</u> NASS R		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1508 proposed to require that fire alarm system contractors in the State be licensed by the Commissioner of Public Safety.

This bill was carried over by H.P. 1203 to the next special or regular session of the 122nd Legislature.

**LD 1516**

**An Act To Eliminate the 3-step Sentencing Procedure Relating to  
the Imposition of Sentencing Alternatives That Include  
Imprisonment**

**ONTP**

<u>Sponsor(s)</u>		<u>Committee Report</u> ONTP		<u>Amendments Adopted</u>
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LD 1516 proposed to remove from the Maine Revised Statutes, Title 17-A the statutory requirement that courts engage in a specific 3-step process for determining sentences of imprisonment with respect to murder and Class A, B and C crimes. The 3-step process was enacted by the Legislature in 1995 and is based, almost verbatim, upon the so-called Hewey analysis first set forth by the Maine Law Court in the 1993 case of *State v. Hewey*, 622 A.2d 1151 (Me. 1993).

Specifically, the bill proposed to repeal and replace Title 17-A, section 1252-C, which required trial courts to follow the 3-step Hewey analysis when imposing sentences of imprisonment for murder and Class A, B and C offenses. The new section proposed to provide that when imposing such sentences, trial courts must adhere to the procedure set forth in the Maine Rules of Criminal Procedure, Rule 32(a)(3), which requires that reasons for a

## *Joint Standing Committee on Criminal Justice and Public Safety*

sentence be set forth on the record, and to the case law developed by the Law Court in the exercise of its appellate review of sentence function.

The bill also proposed to repeal Title 17-A, section 253, subsection 6, which set forth specific lengths of incarceration to be assigned in the 2nd step of the Hewey sentencing process for gross sexual assault offenders who had prior convictions for gross sexual assault and required that such incarceration not be suspended in the 3rd step of the process. In practice, sentences for gross sexual assault offenders who have prior convictions for gross sexual assault are so long that the minimum lengths of incarceration under Title 17-A, section 253, subsection 6 rarely came into play. Moreover, recently enacted Title 17-A, section 1252, subsections 4-B and 4-C call for enhanced penalties for gross sexual assault offenders who have prior Class B or Class C convictions for gross sexual assault or for unlawful sexual contact.

In addition, the bill proposed to remove a requirement in Title 17-A, section 1251 that in murders involving children under the age of 6, the age of the victim be given special weight in the first step of the Hewey sentencing process and replaces that requirement with an instruction to trial courts to give special weight to the victim's age in exercising their sentencing discretion. This new language would be similar to language that already appears elsewhere in the Maine Criminal Code with regard to other aggravating factors.

Finally, the bill proposed to amend, in similar fashion, Title 17-A, section 1252, subsection 5-B, giving special consideration in the 3-step process to the age of the victim with respect to sentences for attempted murder, manslaughter, elevated aggravated assault and aggravated assault committed against a child under 6 years of age.

## *Joint Standing Committee on Criminal Justice and Public Safety*

LD 1517

### **An Act Amending the Laws Regarding Persons Not Criminally Responsible by Reason of Insanity**

PUBLIC 263

Sponsor(s)

Committee Report  
OTP-AM

Amendments Adopted  
H-448

LD 1517 proposed to replace disparate references to the affirmative defense of insanity in the Maine Revised Statutes, Title 15, section 103 and in Title 17-A, sections 39 and 40 with the more accurate and understandable phrase "not criminally responsible by reason of insanity," which is consistent with the Maine Rules of Criminal Procedure, Rules 11(a)(1) and 11A(h) relative to the plea of insanity. The bill also proposed to define "not criminally responsible by reason of insanity," which clarifies that Title 15, section 103 has application to any insanity plea, finding or verdict stemming from former Title 15, section 102; current Title 17-A, section 39 or any earlier version of that section; former Title 17-A, section 58; or former §17-B, chapter 149 of the Revised Statutes of 1954.

The bill also proposed to amend Title 15, section 104-A by striking the words "acquitted by reason of insanity" and replacing them with a reference to Title 15, §103, which directs a defendant's being committed following the acceptance of a negotiated insanity plea or following a verdict or finding of insanity.

Finally, the bill proposed to identify insanity as an affirmative defense and makes technical language changes to conform to legislative drafting guidelines.

**Committee Amendment "A" (H-448)** proposed to add the conjunction "or" to clarify the meaning of section 1 of the bill.

#### ***Enacted law summary***

Public Law 2005, chapter 263 replaces disparate references to the affirmative defense of insanity in the Maine Revised Statutes, Title 15, section 103 and in Title 17-A, sections 39 and 40 with the more accurate and understandable phrase "not criminally responsible by reason of insanity," which is consistent with the Maine Rules of Criminal Procedure, Rules 11(a)(1) and 11A(h) relative to the plea of insanity. Public Law 2005, chapter 263 also defines "not criminally responsible by reason of insanity," which clarifies that Title 15, section 103 has application to any insanity plea, finding or verdict stemming from former Title 15, section 102; current Title 17-A, section 39 or any earlier version of that section; former Title 17-A, section 58; or former section 17-B, chapter 149 of the Revised Statutes of 1954. Public Law 2005, chapter 263 amends Title 15, section 104-A by striking the words "acquitted by reason of insanity" and replacing them with a reference to Title 15, section 103, which directs a defendant's being committed following the acceptance of a negotiated insanity plea or following a verdict or finding of insanity. Public Law 2005, chapter 263 also identifies insanity as an affirmative defense and makes technical language changes to conform to legislative drafting guidelines.



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**LD 1521**                      **An Act To Clarify Law Enforcement Procedures For Fatal Motor Vehicle Accidents**                      **ONTP**

<u>Sponsor(s)</u> DUPLESSIE MILLS P	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1521 proposed to specify that the State Police is the lead agency for the investigation of fatal motor vehicle accidents when it appears that a surviving operator of one of the vehicles involved in the accident violated a law governing the operation of a motor vehicle. This bill proposed to provide status to the State Police similar to the status given other state agencies involving different crimes, such as giving the State Fire Marshal lead-agency status over suspicious fires and the Attorney General direction and control over suspected homicides.

**LD 1550**                      **An Act To Establish the Arsonist Registration Act**                      **ONTP**

<u>Sponsor(s)</u> MAZUREK SAVAGE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1550 proposed to create the Arsonist Registration Act, which would require a person convicted of an arson offense to register with the State Bureau of Identification and the law enforcement agency having jurisdiction over the arsonist's domicile, place of employment and school. The bill proposed that the information be available to law enforcement agencies and registries in other jurisdictions and be provided to the Department of Public Safety, Office of the State Fire Marshal, who could then post this information for public access on an Internet website or other medium. The bill proposed that an arsonist convicted of an arson offense must remain registered for 10 years after the duty to register is incurred.

**LD 1579**                      **An Act To Extend the Ban on Assault Weapons**                      **ONTP**

<u>Sponsor(s)</u> STRIMLING BLANCHETTE	<u>Committee Report</u> ONTP	<u>Amendments Adopted</u>
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LD 1579 proposed to create the Class D crime of knowingly manufacturing, transferring or possessing an assault weapon, a .50 caliber rifle or .50 caliber ammunition. The new crime proposed to define several terms, including "assault weapon" and ".50 caliber rifle" and directs the Attorney General and the Chief of the State Police to create a system for identifying, exempting and adding new models as necessary. The bill proposed that "assault weapon" and ".50 caliber rifle" not include antique firearms and that pistols that are sanctioned by the International Olympic Committee and by the national governing body for international shooting competition in the United States and that are used for Olympic target shooting purposes be exempt also.

The bill proposed to amend current law regarding the confiscation, seizure and forfeiture of machine guns, so that the same procedures and due process apply to the confiscation, seizure and forfeiture of assault weapons and .50

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caliber rifles and ammunition. The bill proposed that machine guns, assault weapons and .50 caliber rifles and ammunition manufactured, acquired, transferred or possessed in accordance with the National Firearms Act, as amended, be exempt from these laws.

The bill also proposed that the crime of knowingly manufacturing, transferring or possessing an assault weapon or .50 caliber rifle or ammunition does not apply to any law enforcement officer of the State, any law enforcement officer of another state or a territory of the United States or a member of the Armed Forces, Maine National Guard or Maine State Guard who possesses an assault weapon or .50 caliber rifle or ammunition if the possession or carrying of the weapon or .50 caliber ammunition is in the discharge of that person's official duties and has been authorized by that person's appointing authority.

**LD 1632                      An Act To Require the Secretary of State To Collect Information                      ONTP**  
**on Operating-under-the-influence Convictions from Other**  
**Jurisdictions before Issuing a Driver's License in Maine**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HALL	ONTP      MAJ	
	OTP      MIN	

LD 1632 proposed to provide that an applicant for a driver's license or for the renewal of a driver's license shall disclose any OUI convictions from another jurisdiction that occurred in the 10 years prior to the application. The bill proposed that the Secretary of State may inquire of a licensee at any time regarding that licensee's OUI convictions from another jurisdiction that occurred in the 10 years prior to the inquiry.

**LD 1645                      Resolve, To Establish the Task Force To Study Maine's Homeland                      RESOLVE 126**  
**Security Needs**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
EDMONDS	OTP-AM	H-714   DUPLESSIE
RICHARDSON J		S-290

LD 1645 proposed to establish a study commission to analyze the State's homeland security needs, the State's current level of homeland security preparedness and the Federal Government's homeland security spending priorities as they relate to the State. The bill proposed that the commission be required to submit an interim report of its findings and recommendations to the Legislature by January 17, 2006 and a final report by December 15, 2006.

**Committee Amendment "A" (S-290)** proposed to strike the resolve and replace the blue ribbon commission with the Task Force to Study Maine's Homeland Security Needs. The amendment also proposed to change the membership and redefine the duties. The amendment proposed that the task force be composed of 11 members: 6 Legislators and 5 members of the public who are not directly involved in homeland security or emergency preparedness. The amendment proposed that the task force review needs and preparedness, using a report from the Governor's Homeland Security Task Force as a beginning point. The amendment proposed that the task force also look at ways to improve communications with the Legislature and the public and consider ways to help the congressional delegation explain Maine's needs on the federal level. The amendment also proposed that the task

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force hold at least 2 of its meetings outside Augusta to allow for public comment in different areas of the State and that the staffing and funding of the task force be provided by the Legislature.

**House Amendment "A" to Committee Amendment "A" (H-714)** proposed to direct the Maine Emergency Management Agency to staff and fund the task force, instead of the Legislature. The amendment also proposed to remove references to the congressional delegation.

### ***Enacted law summary***

Resolve 2005, chapter 126 creates the Task Force to Study Maine's Homeland Security Needs, which is composed of 11 members, including 6 Legislators and 5 members of the public who are not directly involved in homeland security or emergency preparedness. The task force is directed to review needs and preparedness, using a report from the Governor's Homeland Security Task Force as a beginning point. The task force also must look at ways to improve communications with the Legislature and the public regarding homeland security issues. The task force must hold at least 2 of its meetings outside Augusta to allow for public comment in different areas of the State. The task force is staffed and funded by the Maine Emergency Management Agency and is required to submit an interim report of its findings and recommendations to the Legislature by January 17, 2006 and a final report by December 15, 2006.

Resolve 2005, chapter 126 was passed as an emergency measure effective June 23, 2005.

**LD 1659**

### **An Act To Amend the Laws Governing Crimes against People Who Are Homeless**

**PUBLIC 393**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUDLEY	OTP-AM MAJ	H-595
BRENNAN	OTP-AM MIN	H-640 DUDLEY S-354 BRENNAN

LD 1659 was an emergency bill that proposed to do the following:

1. Add "homelessness" to the factors that a court may take into consideration as factors leading to enhancement of sentences;
2. Require that the Board of Trustees of the Maine Criminal Justice Academy include in the basic and in-service law enforcement training programs training aimed specifically at reducing barriers to reporting crimes against people who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless; and
3. Direct the Commissioner of the Department of Public Safety and the Attorney General to review the relationship between law enforcement agencies and people who are homeless, explore methods of improving that relationship and consider ways to facilitate the designation by law enforcement agencies of at least one officer per agency to serve as a liaison between the law enforcement agency and the homeless community served by that agency. The bill also proposed to directs the commissioner and the AG to report back the results of their review, the status of the relationship between law enforcement agencies and people who are homeless and the effectiveness of the law enforcement agency liaison officers in improving that relationship to the Judiciary Committee.

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**Committee Amendment "A" (H-595)** was the majority report of the Joint Standing Committee on Criminal Justice and Public Safety and proposed to replace the bill. The amendment proposed to strike the provision in the bill that would have added "homelessness" to the factors that a court may take into consideration as factors leading to enhancement of sentences. The amendment proposed to make changes to the law enforcement training provisions in the bill by specifying that the Board of Trustees of the Maine Criminal Justice Academy shall add to the basic training program and shall include in its next available recertification training requirements a block of instruction aimed specifically at reducing barriers to reporting crimes committed against persons who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless. The amendment also proposed to strike from the bill language that directed the Attorney General to facilitate the designation by each law enforcement agency of at least one officer to serve as a liaison between the agency and the homeless community served by the agency.

**Committee Amendment "B" (H-596)** was the minority report of the Joint Standing Committee on Criminal Justice and Public Safety. The amendment proposed to strike sections 2 and 3 from the bill, which directed the Board of Trustees of the Maine Criminal Justice Academy to include in the basic and in-service law enforcement training programs training aimed specifically at reducing barriers to reporting crimes against people who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless. The amendment also proposed to strike from the bill language that directed the Attorney General to facilitate the designation by each law enforcement agency of at least one officer to serve as a liaison between the agency and the homeless community served by the agency. This amendment was not adopted.

**House Amendment "A" to Committee Amendment "A" (H-640)** proposed to require the Office of the Attorney General to convene a working group to examine the advisability of implementing aggravating sentencing factors for crimes against people who are homeless.

**Senate Amendment "A" (S-354)** proposed to remove the emergency preamble and emergency clause from the bill.

### *Enacted law summary*

Public Law 2005, chapter 393 makes changes to law enforcement training provisions by specifying that the Board of Trustees of the Maine Criminal Justice Academy shall add to the basic training program and shall include in its next available recertification training requirements a block of instruction aimed specifically at reducing barriers to reporting crimes committed against persons who are homeless and dealing with the unique challenges posed by cases that involve victims or witnesses who are homeless. Public Law 2005, chapter 393 directs the Commissioner of Public Safety and the Attorney General to review the relationship between law enforcement agencies and people who are homeless, explore methods of improving that relationship and consider ways to facilitate the designation by law enforcement agencies of at least one officer per agency to serve as a liaison between the law enforcement agency and the homeless community served by that agency. Public Law 2005, chapter 393 also requires the Office of the Attorney General to convene a working group to examine the advisability of implementing aggravating sentencing factors for crimes against people who are homeless.